

Q U I N T I L I A N ' s  
I N S T I T U T E S  
O F T H E  
O R A T O R.  
V O L . I.

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Q U I N T I L I A N ' s  
I N S T I T U T E S  
O F T H E  
O R A T O R.  
I N  
T W E L V E B O O K S.

Translated from the Original LATIN, according to the  
Paris Edition of Professor ROLLIN, and illustrated with  
Critical and Explanatory NOTES,

By J. P A T S A L L, A. M.

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I N T W O V O L U M E S.

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V O L. I.

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L O N D O N,

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MDCCLXXIV.

T H E  
T R A N S L A T O R  
T O T H E  
R E A D E R.

*I*T is now near four years since the translation of Quintilian, here offered to the Public, has been undertaken. Before, pretty early in life, the same Person attempted a Version of this Author, and had thoughts of printing it by subscription, when that by Mr. Guthrie made its appearance. It was necessary to give time for the judgment of the Public to pass upon Mr. Guthrie's performance; but it was found not favourable to him. Hopes hereupon were conceived by the first Translator of proving more successful; but on revising his work, himself found so many inaccuracies in it, as being green from the university when he set about it, that he judged it more eligible to suppress, and afterwards commit it to the flames, than to hazard his reputation upon it. Imagining, however, (as Quintilian's Institutes of the Orator, is the completest and most ingenious work of the kind that ever was written by either Ancients or Moderns; and as no other book is so well calculated for forming our Orators in Parliament, at the Bar, in the Pulpit; or, in fine, the Gentleman of taste, and the accurate Critic;) that it would  
be

*be doing the Public a service to facilitate the understanding of a work of so considerable utility, he again with alacrity entered upon the task, notwithstanding all the difficulties, he was sensible, he had to encounter, the chief of which was, in rendering exactly Quintilian's sense, and making him at the same time read well in English. His merit in the execution must be left to the decision of the impartial Public.——The Translation is from the Paris Edition of Professor Rollin, compared with that of Bishop Gibson, and illustrated with critical and explanatory Notes. M. Rollin has retrenched the less necessary parts, and it was judged proper to do the same in the translation, to save the embarrassment of students at our Schools, Academies, and Universities, in a few abstruse and superfluous matters. The Translator declares that he never made any use of Mr. Guthrie's Version, not so much as even to look into it, while he had this work in hand, a sufficient proof of which it is presumed, the present Translation may be, in which Quintilian will be found to speak a quite different language.*

# Q U I N T I L I A N

T O

TRYPHON the BOOKSELLER,

GREETING.

**Y**OU have at times pressing \* solicited me to publish the books of Oratorical Institutes, I had dedicated to my friend Marcellus. On your first application, I thought they had not arrived to a just maturity, having, as you know, spent scarce more than two years in composing them, though otherwise embarrassed by a multiplicity of business; and this time was less taken up in attending to the accuracy of style, than in preparing necessary materials for a work, I may say, immense, and the reading of an infinite number of authors.

Next reflecting on the advice of Horace, who, in his Art of Poetry, counsels authors, not to be over hasty in the publication of their works, which he says should bear a nine years confinement in the closet; I reserved mine to revise it in my leisure hours,

\* By *convitio* in the Latin text he means *entreaties*, and as it were, *importunities*. *Epistolam hanc convitio efflagitarunt codicilli tui*. Cic. ad Quint. frat. l. ii. ep. 10. *Convitium*, quasi multæ simul voces.

that

that the love of invention cooling, I might the more carefully examine it with the indifference of a reader.

If the public have such a passionate desire for this work, as you assure me they have, let us display our sails to receive the favourable gale; and in clearing the \* coast, and launching out into the main, let us wish it a prosperous voyage.

It, however, depends much on your care and exactness, that it may come into the hands of the public as correct as possible.

\* *Oram* is an unusual manner of expression in the Latin for *à portu, à littore solventibus*. Others by *oram* understand a cable. See Liv. lxxii. n. 19, and l. xxviii. n. 36. Quintilian uses the same word, liv. c. 2. *Sublatæ sunt anchoræ, solvimus oram, proveci sumus*.

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# B O O K I.

## THE INTRODUCTION.

I. *Wherein are contained the Author's reasons for writing these Institutes of Oratory, and for dedicating them to Marcellus Victorius.* II. *The Orator he forms ought to be perfect, both in morals and learning. And in this place he proves that philosophy was not formerly distinguished from eloquence.* III. *A division of the whole work.* IV. *What sort of style these precepts are written in, and what persons they may benefit.*

I. **S**INCE my discharge from a twenty years employment of instructing youth, some friends endeavoured to engage me to write a Treatise on Eloquence; but I long declined complying with their request, well knowing that the most eminent Greek and Latin authors had delivered to posterity several accurate tracts upon the same subject. This very reason, which I presumed ought to have pleaded a sufficient excuse for my refusal, was urged against me; and my friends pressed me with greater warmth, alledging the difficulty and uncertainty of a judicious choice

amongst the systems of the ancients, some of which contradicted each other: so that they seemed to themselves to have enjoined me this task on very good grounds; if not for discovering new precepts, at least for being serviceable towards forming an adequate judgment of the ancients.

Though the confidence of accomplishing what was required of me, ought not to have influenced my mind to so great a degree, as the shame of denying; yet, as the subject grew more extensive, I voluntarily undertook more than was imposed upon me, that I might not only oblige in a particular manner my loving friends, but also that, as having entered upon a common road, I might not tread in other's foot-steps.

For others, who wrote on the Art of Oratory, began most commonly by making eloquence the finishing of those, who were perfected in all other kinds of literature. Thus, they either looked down with contempt on the studies we first learn; or they supposed these studies made no part of their duty, the functions of teachers being different; or, what affected them more particularly, they expected no compliments to be paid to their literary merit for things, though necessary, yet far removed from ostentation: just so, the eminencies of structures present themselves to view, whilst their foundations lie concealed. For my part, being of opinion, that nothing is foreign to the Art of Oratory, without which, it must be confessed, one cannot become an Orator; and that there is no arriving at the perfection of any thing, without first laying a proper ground-work; I shall not refuse my care to things of less moment, the neglect of  
which

which may exclude things of greater ; and should the training up of an Orator be committed to me, I would begin to form his studies from his infancy.

This work we dedicate to you, Marcellus Victorius, whom, as our intimate friend, and a person of exquisite taste for letters, we judged most worthy of this pledge of mutual affection. These are not the only motives, though considerable, which induced us to it. Your son's instruction, whose \* sparklings of wit in early youth denote a bright genius for eloquence, encouraged us to think, that these books would not be without their degree of utility, which we designed from the very, as it were, infantile rudiments of Oratory, to perfect, and make a complete work of, by all the methods that might in any respect contribute to the improvement of a future Orator.

This I the rather purpose, as two books of the Art of Rhetoric, neither published by me, nor intended for this end, have been handed about under the sanction of my name. The one was † compiled from a two-days discourse, made to some pupils in private. The other, the substance of many days conference, was, by some young gentlemen, but over-fond of me, taken down in ‡ notes,

\* Whose early youth, by evident signs, shews that he will attain to Eloquence, which is the light of the genius. "For as a sprightly genius is the ornament of man, so Eloquence is the light of the genius." BAPT. 59.

† These young gentlemen by attentively hearing and retaining it in their memory, were enabled to digest it into something of a form.

‡ A compendious way of writing: short-hand; whence *notarii*, notaries, were so called.

and rashly honoured with a publication. Wherefore in these books some of the same things will be inserted, many changed, much more added, but every particular will be composed with great accuracy, and made as correct as possible.

II. The perfect Orator we form, must be a man of integrity, the good man, otherwise he cannot pretend to that character; and we therefore not only require in him a consummate talent for speaking, but all the virtuous endowments of the mind. For an upright and an honest life, as some have fancied, cannot in my humble opinion, be restricted to philosophers alone; because the man, who acts in a real civil capacity, who has talents for the administration of public and private concerns, who can govern cities by his counsels, maintain them by his laws, and meliorate them by his judgments, cannot, indeed, be any thing but the Orator. Now, though I grant, that I shall use some things contained in books of philosophy, I must, however, assert, that they belong by right to our work, and in a peculiar manner to the Art of Oratory; and if often I must discuss some questions of moral philosophy, such as points regarding justice, fortitude, temperance, and the like; scarce a cause being found, in which there may not be some debate or other upon these topics, and all requiring to be set in a proper light by invention and elocution; shall it therefore be doubted, that wherever the force of genius, and a copious dissertation are required, but that there in a particular degree is pointed out the business of the Orator?

As nature unites philosophy and eloquence, so likewise duty links them with each other; and  
from

from this notion Cicero plainly infers, that the same persons ought to be reckoned Philosophers and Orators\*. But a distinguishing mark was afterwards affixed to these studies, and inattention was the cause of introducing the seeming diversity of arts. For, as soon as speaking was acted by lucrative views, and the institution of eloquence became depraved by the abuse of integrity, they who were any way possessed of the talent, relinquished the care of the moral duties of life: and thus it happened, that Eloquence shamefully deserted, was made a prey to the weaker kind of wits. Some afterwards disgusting the labour of well-speaking, set themselves apart for improving the mind, and establishing laws for the conduct of life. These retained, indeed, the better part, if it could be divided; but assumed to themselves the very arrogant title of "the only Professors of "Wisdom," a title, which neither the greatest emperors, nor the best qualified for the most weighty affairs of state, and administration of all the departments of a commonwealth, ever presumed to appropriate to themselves; for they rather sought the doing, than the promising of the best things. It must, however, be allowed, that many of the ancient professors of wisdom have delivered several good and instructive precepts, and copied them in their lives; but in our † times, the greatest abominations have lurked in the gene-

\* Lib. iii. de Orat. 56, 62, 72, 73, 107, 108, 122, 123.

† Quintilian seems to have written these remarks about the time, when the philosophers, on account of their corrupt morals, as appears from Juvenal, were banished the city by an edict of Domitian.

reality of that denomination. To be accounted philosophers, they took no pains about virtue and an application to study, but made a mournful dejected air, and a garb of affectation the mask of the worst of morals.

Now we all treat of the things which are said to be the property of philosophy, who now does not discourse upon justice, equity, the sovereign good; even the most abandoned discuss their moral finenesses? Which of our peasants likewise does not make inquiries into natural causes? for the propriety and difference of words ought to be in common to all who pay any regard to their language; but the Orator, thoroughly conversant with these matters, will be able to clothe them with a suitable elegance and energy of expression; and when once he is arrived at perfection, there will be no occasion to have recourse to the schools of philosophers for precepts of virtue. At present, it is sometimes necessary to consult the authors, who have, as I said, engrossed the deserted, yet better part of the Art of Oratory, and to reclaim it as our property, not so much for adopting their inventions, as to teach them that they have used what did not belong to them.

Let therefore the Orator be as the real sage, not only perfect in morals, (for that, as I judge, is not sufficient, though there are who disagree with me); but also in science, and in all the requisites and powers of elocution. Such, perhaps, never yet existed; but we are not the less to make advances towards perfection: the road has been already paved for us by many of the ancients, who laid down and inculcated precepts of wisdom,  
though

though of opinion that a true sage had not yet appeared in the world. Undoubtedly, a consummate Eloquence is something, and to attain it is not denied to the nature of the human genius. Should we find it above the reach of our abilities, let us notwithstanding think, that those shall proceed farther, who make noble efforts to arrive at the height, than these, who, overwhelmed by the despair of success\*, sink immediately to the bottom.

III. The reasons I have offered, may contribute, in some measure, towards my being pardoned for not passing by such things of less moment, yet necessary to the work I am about. The first book shall contain what is previous to the duty of a rhetorician. In the second, I will treat of the first elements of rhetoric, and the questions concerning its substance. The five following will be allotted for invention, to which is subjoined disposition. Elocution will be comprised in four, to which belong memory and pronunciation. One shall be added to form the orator; and here, as far as my poor abilities may permit, I shall throw together some reflections on the morals that ought peculiarly to characterize him; the methods he ought to proceed by in undertaking, learning, and pleading of causes; the kind of eloquence that suits him; the time for laying aside his pleadings and retiring; and the employments of his retreat.

\* *Presumptâ desperatione*, conceiving despair before the attempt of a thing, imagining it impracticable.

IV. My style and manner of writing being likewise made to agree with the nature of things, as they occur, I will not convey to the studious a bare knowledge of \* precepts, on which alone some have bestowed the name of art, nor teach rhetoric as the law; but I will so write, as that the reading of my work may nurture diction, and fortify eloquence. For most commonly such poor naked arts, through an overstrained affectation of precision, break and shatter all that is generous in a discourse, dry up all the sap of the genius, and leave it like a skeleton-body with naked bones. Undoubtedly bones are necessary, but they should adhere to each other by their respective ligaments, and be covered with muscular flesh. I shall not therefore confine myself to † mere precepts, as most have done; on the contrary, all that has been thought necessary to constitute an orator, has been brought into the compass of these twelve books, every article being concisely demonstrated; for should I say as much upon each particular as might be said, there would be no end to the work.

It must, however, be acknowledged, that precepts and arts are of no efficacy, unless assisted by nature. The person therefore that wants a genius, will reap as little benefit from these writings, as barren soils from precepts of agriculture. There are other natural qualifications, as a clear, articulate, and audible voice; strong lungs; good

\* Quintilian means the necessary precepts of rhetoric, and alludes to the style of lawyers who interpret the laws in a jejune and dry manner.

† *Particulariam illam.*

health<sup>m</sup>; sound constitution; and a graceful aspect; which, though indifferent, may be improved by observation and industry; but are sometimes wanting in so great a degree, as to vitiate all the accomplishments of wit and study: even the best talents avail nothing without the help of a skilful teacher, attentive and constant study, and a continued practice of writing, reading, and speaking.

## C H A P. I.

*Of the Education of the future Orator.*

- I. *That nature is not so much wanting to children as care.* II. *What kind of persons, nurses, parents, tutors, and boys, with whom the future orator is to be educated, ought to be.* III. *The Greek language to be first learned.* IV. *Boys can learn before they are seven years old.—But ought not to be urged to too great an application in their tender years.—Why he treats of such inconsiderable matters.—V. Of reading and writing.*

I. **A**T the birth of a son, let a father conceive the best hopes of him: thus will he be more careful from the beginning. For it is a false complaint that few are endowed with the faculty of conceiving what they are instructed in, and that most mispend their time and application by the dulness of apprehension. On the contrary, you will find many of quick conception, and ready at learning. Such is the picture of man's nature; and as the destination of birds is for flying, of horses for the swiftness of course, of wild beasts

<sup>7</sup> *Cerperis famitas.*

for a ferocious disposition; so, the employment and acute reflections of the mind, being properly calculated for rational beings, we thence conclude that the origin of our souls is celestial. But the \* dull, and they who cannot learn, are no more produced according to the order of human nature, than bodies remarkable for something unusually monstrous. Few examples, however, of this sort are met with; and that care is more wanting to children than nature, is evident from the sprightliness we perceive in their tender years, which is suffered to decay of itself. I allow that the genius of one is more excellent than that of another; but culture effects more or less, and there is not one but has acquired something by study. Let therefore the parent, who is persuaded of this, use all his diligence to forward the hopes of a future orator.

II. Nurses should not have an ill accent, and Chrysippus would have them learned, if possible, or at least of the more prudent and virtuous sort. Their morals are first to be inspected; next the proper pronounciation of their words ought to be attended to. These are the first the child hears, and it is their words his imitation strives to form. We are naturally tenacious of the things we imbibe in our younger years: new vessels retain the favour of the ingredients first put into them; and the dye by which wool loses its primitive whiteness cannot be defaced. The worse things are,

\* These two vices, *libetes* and *indociles*, he opposes to two virtues, which he mentioned a little before: *faciles in excogitatione* & *prompti ad discendum*.

the more stubbornly they adhere. Good is easily changed into bad, but when was bad ever converted into good? Let not therefore the child, even while an infant, accustom himself to a manner of speech, which he must unlearn.

As to parents, I could wish they were very learned. I speak not of fathers only, for it is well known that \*Cornelia, the mother of the Gracchi, contributed greatly to their eloquence, witness the great erudition we find in her letters. Lælius's daughter is said in ordinary conversation to have copied her father's eloquence; and the speech of the † daughter of Quintus Hortensius before the ‡ Triumvirs, was not only an honour to her own sex, but may even be a credit to ours. Nevertheless they, who are so unhappy as not to have learned, ought not on that account to be regardless of their children's instruction; on the contrary, they should be attentive to every particular part of it, with greater diligence.

What has been said in regard to nurses, is enough for forming a judgment in regard to the boys, in whose company the future orator is to be educated.

The chief care must be, either in making choice of skilful § tutors, or of such as are conscious to themselves that their abilities are inconsiderable. For nothing is more odious than the infatuation of

\* See Cicero in *Brutum*, concerning Cornelia and Lælius's daughter, 211.

† See this history related by Valerius Maximus, l. viii. c. 3.

‡ Cæsar Octavianus, Antony, and Lepidus.

§ The governors or attendants of children, were most commonly freed men, *Liberti*.

those, who imagine themselves learned, from having made some small advances beyond the first rudiments of literature. They think it beneath them to yield to the experienced, and, big with a notion of authority, the common failing of their kind, become haughty and boisterous, and in this humour, vent their sententious fooleries. Their misconduct is likewise of singular prejudice to manners, as may appear from the testimony of the \* Babylonian Diogenes, who says that Alexander's governor, Leonides, tainted him with some imperfections, which, as habituated to in his childhood, he could not well rid himself of in more advanced years.

If I seem to require too much, let it be considered, how hard a matter it is to form an orator. Supposing even none of the things I hinted, were wanting to his formation, still more difficult things remain. Constant study, masters of great abilities, and frequent instructions, in the exercise of oratorical faculties, are points highly necessary. Let therefore the best things be taught him; and if a tutor imagines this an embarrassment, the fault must not be imputed to the method † I prescribe, but rather to his neglect.

Now should the nurses, children, tutors, happen not to be such as I would have them; at

\* The Babylonian Diogenes, Quintilian here mentions, was a Stoic Philosopher, and associated with Carneades and Critolaus in their famous embassy to Rome.

† *Quidquam* should be understood in the text to make the sense cut. It will not be the fault of the *Method*, as the best things are prescribed, but the fault of the *Man*, that is, of *those*, who in instructing youth, do not chuse to abide by what I advise, as too troublesome and difficult.

least, let an experienced master of language give constant attendance, and instantly correct any word, which is improperly pronounced in his pupil's presence, in order that he may not be suffered to contract a habit of it. But what I before mentioned must be understood to be good, and this a remedy.

III. I would advise the teaching of Greek first to a boy, because the Latin in common use, will come of itself; and, as our Accidence has been borrowed from the Greeks, it will not be amiss to be first versed in theirs. This ought not to be so punctually observed, as that he should speak and learn nothing for a considerable time but Greek, as is customary with many: for thus by foreign sounds a corrupt manner of speech, and accent, are acquired; and a long practice of a Greek † idiom cannot be laid aside, even in the speaking of a different language. The Latin therefore must soon follow, and both in a short time go together: so it will come to pass, that when we equally improve both languages, the one will not be hurtful to the other.

IV. Some were of opinion that children under seven years of age, ought not to be made to learn; because that early age can neither conceive the meaning of Methods, nor endure the restraint of study. Hesiod was of this opinion, as appears from the authors who lived before the time of Aristophanes the grammarian. He was the first

† By a *Greek Figure* in the Latin text, is meant a Greek idiom, or manner and form of speaking peculiar to the Greeks, and not suitable to the Latin idiom.

who denied that the \* ὑποθήκας, wherein this precept is found, was written by Hesiod. Others, among whom Eratosthenes, had likewise inculcated this maxim. But I agree with those, as Chrysippus, who think that no time ought to be exempted from its proper care : for though he assigns three years to nurses, he judges that even their instructions may be of singular benefit. And why may not years, which can be mended by manners, be improved also by learning ? I am not ignorant, but that one year will afterwards effect as much as all the time I speak of will scarce be able to compass ; and they who think with me, seem in this respect, not so much to have spared the learner, as the teacher. What better can they do, when once they can speak ? They must necessarily do something ; or, why must we despise this gain, how little soever, till seven years are expired ? For though the advantage of the first years be inconsiderable, a boy, notwithstanding, will learn a greater matter that very year, in which he has learned a less. Such yearly advances will at length make up something considerable ; and the time spent well and saved in infancy, will be an acquisition to youth. The following years may be directed by the same precepts, that whatever is to be learned, may not be learned too late. Let us therefore not lose this first time ; and the rather, because the elements of learning depend upon me-

\* Aristophanes, a grammarian of Byzantium, said that Hesiod was not the author of the book intituled ὑποθήκας, which signifies, *Precepts*. ἰσχυρὰ τῆς Κρήτης ὑποθήκας, he acted according to Cretus's advice. HERODOTUS.

mory, which most commonly is not only very ripe, but also very retentive in children.

But I am not so great a stranger to the management of tender years, as to think that a heavy hand ought to be kept over children, and that they can fully satisfy what is enjoined them. Great care must be taken, that the child, who cannot yet love study, should not hate it; and that the disgust he had once taken, might not deter him in more advanced years. Study ought to be made a diversion to him; the master should ask him questions and praise him; he should be let to take some pleasure in, and be fond of his own little knowledge. If he refuses to learn, teach another before him; this will excite his emulation. Let them contend with each other, and let him fancy that he has often the advantage on his side: rewards too, are a very prevailing argument with children.

Instructions on subjects so inconsiderable, may seem to depreciate our grand design of forming the Orator; but all studies have their infancy, and as the bringing up of the strongest bodies, takes a beginning from milk and a cradle; so he, who may hereafter be most distinguished for Eloquence, had his squalling time; his first speech was a jargon of half-formed words, and the figures of the alphabet struck him with amazement. Because, perhaps, the learning of a trivial matter is of no great moment, shall it be therefore said, that it is not necessary? A father is not found fault with, for not neglecting the least trifles with regard to his son's education; shall it then be reckoned amiss, if one should publish the good regulation of his family,

mily, to benefit others by his example? Add to this, that these little matters are more proportioned to childrens capacities; and, as bodies cannot be formed to certain supple flexures of the joints but when young; so the mind, unless made pliable in the beginning, becomes so callous with age, as to be ever after unfit for many things. Would Philip, king of the Macedons, have his son Alexander taught the first rudiments of learning by Aristotle, the greatest philosopher of the age? Or, would Aristotle have taken upon him that charge, were not both very sensible, that it is a matter of the greatest importance, to have the first principles of studies conducted by the most perfect? Let it therefore be supposed, that Alexander is put under my tuition; that a child, deserving of so much care, is placed on my lap, though every one's child is equally dear to them, should I be ashamed, even upon the first rudiments, to point out some short method of teaching?

V. It is a common fault with masters to teach children the names and order of letters, before they become acquainted with their forms. This hinders their knowing them, as not attending to the way they are figured, by running them over by heart. For which reason, teachers, when they have left long enough the letters settled in the proper order, in which they are usually first written, should have them all passed over backwards, and variously changed and shifted, till known at first sight, and not by their order. In this manner they will be thoroughly learned, and exactly distinguished, as different men by their different dress and names.

But

But this precaution for learning letters is of no significance in regard to syllables.

I exclude not also the custom of exciting children to learn, by giving them ivory figures of letters to play with, or if there be any other pretty invention to amuse them by handling, looking at, or naming.

When the alphabet is learned in different positions, it will not be amiss to have the letters graven on a plate, that the \* stylus may be drawn through the furrows made in them. By this means, no mistake will be made, as in wax-tablets, both sides having margins and fixed bounds, which cannot be surpassed; and the child, by expeditiously and frequently following the impressed track, will strengthen the joints of his fingers, and not require the help of a hand placed over his to direct him. The care of writing well and fast, is no indifferent matter, though most commonly neglected by the better sort. It is a great acquisition to study, and a good method will facilitate and further its progress; whereas to write slow is a hindrance and delay to thought. Mishaped and confused writing can neither be well read nor understood; whence follows the additional labour of dictating the necessary corrections: so that whoever contracts the habit of a fair and well-proportioned hand, will in several respects find its benefit, but more especially

\* Stylus, a kind of pen, of wood or ivory, used by the ancients for writing, most commonly on waxen-tablets. With one end they wrote, and with the other expunged.—It seems by this passage, that it was customary with the ancients to teach their children, first to know and tell the letters, and immediately after to write them. The same may be said of syllables and words.

in transacting private business, and corresponding with friends and acquaintance.

There is no set compendious method for teaching syllables, therefore they are all indiscriminately to be learned; and the most difficult, as is commonly done, should not be reserved for another time, that all of them may be known when children come to write \* them. They are not to be got by heart promiscuously: frequent repetition will fix them in the memory to greater advantage; and the reading of them ought not to be precipitate, unless a plain and easy connection of the letters with each other, shews that this can be effected without a delay of thought. Next must follow the formation of words from syllables, and sentences from words. It is incredible how much haste retards reading; and they who in this respect attempt to get forwarder than they well can, fall into doubts, and stammerings, and repetitions, and in their mistakes are even diffident of the things they know. Let therefore the first reading be sure, next connected, and slow for some time, till practice facilitates an exact readiness. For to look to the right side, is not only a method generally prescribed but also used; and he who keeps in view what follows, must read at the same time what goes before; and what is most difficult, must divide the attention of his mind between his voice and eyes.

There is another thing deserving of our care, which is, that when the boy is set to write words, he may not lose, as is customary, his time and pains upon copying a vulgar and frivolous voca-

\* Some read *nominibus* for *omnibus*, and the sense will then be, "When children come to write words."

bulary;

bulary ; because he may then learn, while as otherwise employed, the interpretation of abstruse words, called by the Greeks \* γλώσσας, and thus with his rudiments attain the knowledge of a thing, which should afterwards require its own time.

As still we discuss small matters, I would have the writing-copy-lines to consist not of idle sentences, but to inculcate some virtuous precept. The remembrance will continue to old age, and the impression on a tender mind may prove conducive to moral life. The sayings likewise of illustrious men, and select passages out of poets, things very agreeable to children, may be learned by way of diversion.

Memory, which we shall treat of in its proper place, is extremely necessary to an Orator, and exercise is its chief strengthening and nourishing food ; and in the years we now speak of, which can produce nothing of themselves, it is almost the only thing that can help and second the care of teachers.

That children may have their organs of speech, fitted for a just pronunciation, and the due emphasis of words, I think it not improper to make them repeat with all possible celerity, certain † words and verses of an affected difficulty, chained together by a jumbling and jingle of many harsh, hoarse, and jarring syllables. They are called ‡ χαλεπαὶ in Greek. This may be said to be a mat-

\* Quintilian himself, in chapter fifth of this book, calls *gl'iffemata*, words not in common use.

† As *perterritus*. Aristophanes has the words σφραγι-  
δου χαργικουητος and κομποφανταστικουητος. And this old verse:  
*Frenxian fixa feroc infesta injunditur assis.* CAMER.

‡ Difficult, crabb'd.

ter of little significancy, but its omission may make the pronounciation extremely faulty, and unless prevented in the first years, will prove ever after incorrigible.

## C H A P. II.

*Whether public or private tuition is better for Children.*

- I. *He refutes what is commonly objected against public Schools, and is of opinion, 1. That they are not prejudicial to morals:—and here passes a severe censure on the pernicious indulgence of parents. 2. That they are not hurtful to study. II. He demonstrates, by many arguments, the utility of schools.*

AS the boy grows up, he must insensibly be weaned from all infantile toys and indulgence, and begin to learn in earnest. Here is the place for discussing a dispute concerning public and private tuition, and determining which has the greater advantages.

I. To the public, the greatest legislators and most eminent authors have given the preference; but some, for certain particular motives, dissent from this almost universally received custom, alledging two principal reasons in support of their opinion. The first, is the risque a child's morals run, from the commerce he must necessarily maintain with numbers of the same age, who are much prone to vice, and whose corrupt examples are the causes of all the irregularity we perceive in the conduct of others. I wish this complaint was groundless! The second, that a master, abstracting from the consideration

tion of his abilities, can bestow more of his time upon one, than when divided amongst many. The first reason carries great weight with it; for if it be true, that schools are serviceable to learning, but prejudicial to morals, I should rather recommend the instructing a child in upright life than eloquent speaking. But these two particulars are so intimately connected with each other, that I cannot imagine how honesty can with propriety be separated from the Orator; and if it could, it ought not with my consent. Let us therefore first examine this point more at large.

1. It is thought that schools are a nursery of vice: they are so sometimes, and a parent's house is equally the same: there are many instances of innocence lost and preserved in both places. Nature and education are the only particulars that constitute a difference between persons. Should a boy be inclined to bad courses; should his tutors be remiss in forming his tender heart by virtuous sentiments, and watching carefully over all his actions, the most recluse life would not secure him from vice. His private tutor may be a man of depraved morals, and the conversation of wicked domestics may be as contagious as that of immodest companions. But if his natural disposition is good, if his parents are not lulled into a blind indolence, they may chuse for him a preceptor of unblemished integrity, which ought to be the principal care of all prudent persons; they may inure him to the strictest discipline; and they may likewise set over him some grave governor of mild persuasion, or some faithful freedman, who shall constantly wait upon him, and whose presence will inspire with

respect, and even improve in goodness those whose company may have been suspected.

It would be easy herein to remedy our apprehensions. I wish we were not ourselves the corrupters of our childrens morals. We first quite spoil their infant-years with all sorts of delicacy; and that soft education, which we call indulgence, emasculates all the vigour of the mind and body. What will not a grown-up child desire, who has been accustomed to all the apparatus of sumptuous apparel? He scarce can articulate a few words, yet knows what will make him appear very \* fine, and withal requires the greatest niceties of food. The gratifications of his palate are more consulted than his † morals. They grow up, practised in the ease of being carried about in sedans and litters; and when they alight, for fear of touching the ground, are upheld and balanced on all sides within the officious arms of attendants. It gives us a sensible pleasure to hear them express words of rather too licentious an import; and ‡ words, not even supportable

\* *Coccus* in the text, or *quisquilium*, cochineal, is that granular insect, wherewith scarlet is dyed. *Conchilium* is a species of shell-fish, and of the *murex*, from which the ancients expressed a colour not unlike purple. Some read *Cocum Cequum*, and by *Conchyia* understand *nic-tasted fishes*; so that, according to them, this intire passage should be referred, not to *sumptuous appare*, but *delicate food*. Others have restrained the meaning of the text to *dress* alone, by substituting *paratum* in the place of *palatum*. Others again have kept *palatum* and explained it in that sense; but it seems more natural that Quintilian meant both a taste for dress, and the studied refinements of the pleasures of the table.

† In some manuscripts and printed editions we meet with *more institutus*, instead of *as institutus*, which seems more genuine.

‡ So we have translated *verba ne Alexandrinis quidem permit-tenda aliorum*. Quintilian alludes here to the sacrifices of Serapis,

portable in the mouths of the most lewd, we receive with laughter, applause, and kisses. No wonder : we have taught and they have heard them from us. Every entertainment echoes with obscene songs, and impudent airs of music. Things I should blush to mention, are made objects of their sight. First, these become habitual, next natural. The poor things learn vice before they know it to be such ; and thus quite vitiated and debauched, rather bring the infection into schools, than receive it from them.

As to the second reason, " That a tutor, who has but one to take care of, can bestow more time on his instruction," what should hinder him, who is brought up in schools, from having one ? But if this could not conveniently take place, I should prefer the broad day of a virtuous assembly to the obscurity and solitude of private families. The best of masters are fond of seeing about them a number of pupils, and think themselves worthy of a more spacious theatre for the exertion of their abilities : whereas those of an inferior rate, from a consciousness of their insufficiency, take up with the function of pedagogues, not reputing it beneath them to confine themselves to one or few. But suppose a person, by interest, friendship, or money, should keep at his house a master of consummate abilities : can such spend the whole day upon one ? Or, can the application of his pupil be so constant, as not to admit of a fatigue, as it happens to the eyes long intent upon viewing an object ? Add to this, that study requires solitude ;

pis, which were solemnized near Alexandria, by the most lewd of both sexes.

and whilst a child learns his lesson, whilst he writes, thinks, and meditates, there is no occasion for a master, the least interruption serving only to embarrass him. Neither does he require assistance in the reading and interpreting of some books: if he did, when could the knowledge of so many authors be acquired? All therefore that seems necessary, is to prescribe his task for the whole day, which takes up but little time: so, what is taught one, may be taught many, the nature of most things being such, as to admit of a communication to all by the same voice. Not to mention \* Rhetorical Themes and Declamations, the whole of which, let the number be ever so great, each may take away with him. For the voice of a master, and a feast, are not similar cases. The feast diminishes in proportion to the greater number of guests; but the master's voice is like the sun, distributing equally its light and heat to all. Should a grammarian make dissertations on the nature of a language, should he solve the intricacies of a question, or clear up a passage in a poet or historian, will not as many learn as hear him?

But it is said that one master cannot thoroughly examine a number of scholars, nor correct their compositions. I grant it is not in his power; for what is not attended with an inconveniency? But this I soon will compare with the advantages. I

\* *Partitiones et Distributiones Rhetorum.* *Partitiones* are properly the distributions, or the principal heads, and parts of a theme, composed and dictated by the master, as a matter for declamation, divided into its parts. *Declamationes* is the same subject-matter, which the master having diligently studied and worked up at home, either pronounces or dictates in school.

would not, however, advise the sending of a child to a school, where he is likely to be neglected: neither ought a good master to burden himself with more pupils than he is well able to teach: particular care ought likewise to be taken that this master be a bosom friend, and that his instruction proceed rather from the secret emotions of his affection, than the sense of his duty. By this means our children will never be confounded in an undistinguished croud; and no master, even slenderly versed in literature, but will for his own credit cherish him, in whom he perceives both application and genius. But if crowded schools are to be avoided, a thing I do not agree to, when the reputation and merit of the master is the cause of his being resorted to; it follows not, that all schools are to be equally avoided, as there is a wide difference between avoiding intirely, and making a proper choice.

II. Having refuted what is commonly objected against public schools, I shall now explain my own sentiments on the matter. Above all, let the future Orator, who must appear in the most solemn assemblies, and have the eyes of a whole republic fixed on him, early accustom himself, not to be abashed at facing a numerous audience, the reverse of which is a natural consequence of recluse and sedentary life. His mind must be excited and kept in a state of constant elevation; otherwise retreat and solitude will force it to droop in languor; it will contract rust, as it were, in the shade, or on the contrary, become puffed up with the vanity of pride and self-love; for one that compares himself to none, cannot help attributing too much

to himself. Afterwards, when obliged to make a shew of his studies, he is struck mute; he is blind in day-light; every thing is new to him; and the reason is because he has breathed only the air of his cabinet and learned in private, what he was to transact before the eyes of the world.

I make no mention of the firm and sincere friendships contracted at schools, and religiously preserved even to old age. Nothing is held so sacred; and to be fellow-students, is as much as to be initiated in the same mysteries.

How shall he learn what we call \* 'Common Sense,' when he sequesters himself from society, which is natural, not only to men, but to mute animals. Add to this, that at home, he can only learn what is taught him; but in schools he can learn what is taught others. He will hear daily his master approve one thing, correct another, reprimand the idleness of one, commend the diligence of another: the love of praise will excite his emulation: to yield to his equals, will be a dishonour; to surpass his superiors, a glory. All these are incentives to young minds, and though ambition be a vice, it is often the cause of virtue.

I remember a custom observed by my masters not without success. They distributed the scholars into classes, and every one declaimed in his place, which was more advanced, according as he had excelled others, and had made a greater progress. Judgment being to be passed on the performances, the contention was great for the respective degree

\* *Sensus Communis*. By it Quintilian understands a kind of knowledge and experience we insensibly acquire by conversing with men. Cicero calls it *communis prudentia*.

of excellence ; but to be the first of the class, was esteemed something very grand. This was not a decision to continue always : every thirtieth day renewed the dispute, and made the vanquished more eager for again entering the lists. He who had the superiority, slackened not his care ; and he who was worsted, was full of hopes to wipe off disgrace. I am persuaded, that this gave us a more ardent desire, and a greater passion for learning, than all the advice of masters, care of tutors, and wishes of parents.

As nothing is so conducive for making a progress in learning as emulation, so beginners and children ought rather to rival their school-fellows than masters, their imitation, as easier, being more agreeable to them. For it is not possible that a child, who yet is but in his first elements, should expect all of a sudden to aspire to the eloquence of a man, whom he reputes to have eminently superior talents to himself and others. He will therefore proportion himself better to what is within his reach ; as vines, planted close to trees, first catch and twine about the lower branches, and at last shoot up to the top. This notion may likewise be applicable to such masters, as are more acted by a desire of proving useful, than making a shew of their wit. In teaching children, they ought not all at once to over-burden their weakness, but by lessening designedly their own knowledge, adapt it to their intellects. Pour water hastily into a vessel of a narrow neck, little enters ; pour it gradually and by small quantities, it is filled. So with children, we must see what they are capable of. Things too elevated, and not within their sphere,

sphere, cannot have admission into minds, not yet sufficiently open to receive them. It is therefore necessary they should have an object of imitation, till they are in a condition to surpass it, and thus we may hope for their making insensibly a greater progress. To what has been said on this head, I shall add this farther reflection. A master, who has but one pupil to instruct, can never give unto his words that energy, spirit, and fire, which he would, if animated by a number of students. The force of eloquence has its residence in the soul: the soul then must be affected in a very lively manner; she must figure to herself the images of things; she must transform herself, as it were, into the very nature of the subjects we speak of. Now, the more noble and exalted the soul is, the more grand the object ought to be which should move her; her efforts give her a new supply of strength, and she seems to exult in great attempts. There is a secret disdain felt in lavishing upon one the powers of Eloquence, acquired by so much pains. There is a shame annexed to the raising of discourse above what is ordinary. And indeed, let us conceive a man in the act of making a speech, his air, his voice, his gait, his pronunciation, his action, his transports, his fatigue, and all for the instruction of a single person; would not his behaviour seem in a great degree allied to madness? Undoubtedly, eloquence would never have existed, if men had confined themselves to speak for one, or in private.

## C H A P. III.


- I. *By what signs the genius of Children is discerned.*  
II. *How the Learner's disposition is to be treated and managed.* III. *Of the Diversions of Children.* IV. *That Children are not to be whipt, or beaten.*

I. **A** Skilful master, who has a child placed under his care, must begin by sounding well the character of his genius and natural parts. Memory is the principal sign of a genius in children. Its qualities are two-fold, an easy conception and faithful retention. Next comes Imitation, which argues in like manner a tractable nature, and ought to be so directed, as not to ape the air, the garb, the gait, and aukward ways of others; but rather to express and represent exactly the things it learns. I must indeed entertain but slender hopes of that child's wit, who by imitating oddities should strive to make himself ridiculous: for the truly ingenious can be no other than the virtuous; and the slow genius in my opinion, is a degree above the vicious. Still the virtuous will stand at a very wide distance from the heavy and groveling. The witty child I form to myself an idea of, will easily learn all that is taught him. Sometimes he may ask little questions, but will rather follow than run before. That sort of wits, which seem ripe before their time, seldom or ever come to any perfection. They are very ready at executing little things, and with an air of decision shew all their knowledge at once. This is perceptible when they first learn to read; for  
without

without hesitation, and not in the least deterred by the shame of their mistakes, they join words together and confound the sense; so that their readiness terminates in little or nothing, having no real strength to invigorate them, nor sufficiently deep roots to be a support and nurture to their growth. Such is the sudden sprouting up of seeds cast on the surface of the ground; or blades of corn which grow yellow before the harvest, but have empty ears. These superficial sparklings of wit compared with children's years, may be applauded, and indeed seem considerable; but we are undeceived by beholding this wonderful progress suddenly at a stand.

II. These observations being made on a child's genius, the next thing that falls under consideration is the management of his disposition. Some are indolent unless spurred on, others resent to be mastered; some are kept to their duty by fear, others are discouraged; assiduity betters some, others learn by spurts and starts. But give me the lad, who is excited by praise, who is sensible of glory, and who weeps, when worsted. Let these noble sentiments work in him; a reproach will sting him to the quick; a sense of honour will rouse his spirit; in him sloth need never be apprehended.

III. Children, however, must be permitted some relaxation, not only because there is not any thing capable of enduring continued labour, a fact verified even in bodies without sense and life, which cannot preserve their due force and elasticity unless recruited by alternate rest; but also, because the desire of learning is placed in the faculty of the will, which cannot bear constraint. When  
therefore

therefore they have refreshed themselves by a little recreation, they return with new vigour to their studies, and their minds which most commonly otherwise spurn the yoke of compulsion, become more tractable and have clearer conceptions. I am not displeased at play in children: it is a sign of their vivacity; but the boy whom I observe to be always gloomy and downcast, affords no great expectations of a sprightly disposition for study, because languid and dead to that ardour for play, which is so natural to those of his age. In this notwithstanding, as in all other particulars, there is a mean to be kept: deny them play, they hate study; allow them too much of it, they acquire a habit of idleness. There are certain amusements that serve to sharpen childrens wits, such as the proposing of little questions, which they eagerly endeavour to solve. Play also easily discovers the bent of their temper and moral character; and hence it may appear, that there is no age, though ever so infirm and tender, but is capable of receiving the impression of good and evil; and that then more especially its culture ought to be attended to, when unacquainted with the arts of dissimulation, and pliable in the hands of a teacher.  is easier to break, than to amend what is hardened in corruption. A child therefore, cannot be too soon admonished to restrain his passions, to forsake his bad practices, and to unlearn his capricious humour of doing things inconsiderately; and they who have the care of him ought always to keep in mind this sentence of \* Virgil:

— *Adcò in teneris consuescere multum est.*

\* Geor. l. ii. v. 172. On young plants.

Such

Such is the force of custom in green years  
Contracted.

TRAPP.

IV. There is a thing I quite dislike, though authorised by custom, and approved of by Chrysippus, which is the whipping of children. This mode of chastisement seems to me mean, servile, and as all will grant, a gross affront on more advanced years. If a child is of so untoward and abject a disposition, at not to correct himself when reprimanded, he will be as hardened against stripes as the vilest slave. In short, if a master constantly exacts from his pupil an account of his study, there will be no occasion to have recourse to this extremity. It is his neglect that most commonly causes the scholar's punishment, who is not obliged to comply with his duty, and for not having, must be chastised. Now, if there be no other way of correcting a child but whipping, what shall be done, when a grown up youth, he is under no apprehension of such punishment, and must learn greater and more difficult things? Besides, when children are whipt, many indecencies, not fit to be mentioned, happen either through fear or pain, which raise many a blush in their faces; and shame depressing their minds, makes them dispirited, and shy of appearing in public. It will be much worse, if the morals of masters and tutors are not well looked into, and a good choice made of them; for I am ashamed to speak of the scandalous behaviour of some unworthy masters, who abuse their privilege of punishing; and the continual apprehensions poor little unhappy children are thrown into, is sometimes a handle to others for behaving in the same manner. I shall enlarge no farther on this

this subject; it is too much that I am understood: yet let this be sufficient to give warning, that none ought to be allowed to lean too heavy on an age, so infirm, and so exposed to injuries.

I shall now begin to speak of the arts, which are necessary for the forming of an Orator, and of the things requisite for him to do and learn in every stage of life.

## CHAP. IV.

### Of GRAMMAR.

- I. *Eulogium of Grammar.* II. *Speech, to be perfect, ought to be correct, clear, and elegant.* III. *It consists likewise of reason, and the sanction of antiquity, authority, and custom.* IV. *of Orthography.*

I. **A**S soon as a child knows how to read and write, he should be sent to the grammar-school. It is a matter of no great moment whether he begins with Greek or Latin, though I advise his first learning Greek; but the way that leads to the one, leads also to the other.

Grammar, divided into two parts, comprehends “the art of speaking correctly, and the explanation of poets.” By this division more is to be understood than is expressed; for the art of writing is properly joined with that of speaking: the explanation of poets pre-supposes a correct method of reading, and with all is blended \* criticism. In

\* The faculty of discerning the justness of a thought or expression. The Greeks call this faculty *κρίσις*.

this last respect, the ancient grammarians have acted so censoriously, as to stigmatize some passages in poets as extremely faulty, and to treat books, which seemed falsely ascribed to certain authors, as spurious children in a family, who had no right of inheritance with the legitimate. Some other authors they either reduced into a better form, or classed among the good and genuine; whilst some works of others they intirely excluded \* their catalogue, as sorry productions.

It is not sufficient to be well read in the poets; the writings of all others ought to be equally perused, not only on account of the useful tracts of history to be met with in them, but also for furnishing ourselves with a variety of expressions, which frequently receive their authority from their authors. Grammar likewise cannot be perfect without music, as it must treat of † measures and numbers; and without an acquaintance with astronomy, there is no understanding the poets, who, to specify the vicissitudes of times and seasons, so often mention the rising and setting of constellations. What shall I say of philosophy, the knowledge of which is necessary for explaining many passages in such poems, as enter into an elaborate discussion of some very abstruse natural questions?

\* Most commentators seem to have overstrained the sense of this passage, by making *alios omnino exterminare numero*, signify *eximios fecerint, extra ingenii aleam posuerint*. I have followed the most natural and literal sense; as also in *auctores alios in ordinem redegerint*, which is not properly interpreted: "Some works they have placed in the class of the vulgar and indifferent." *Inter vulgares et mediocres connumerarint*.

† *Measure*, in Quintilian's sense, consists in a proportion of time, and certain order of feet. *Number*, in a proportion of time, but not in the order of feet.

Empedocles among the Greeks, and Varro and Lucretius among the Latins, who wrote philosophical systems in verse, contribute also not a little to make this knowledge necessary. Eloquence crowns the work, and helps us to illustrate whatever has been demonstrated, with a propriety and copiousness of diction. It is therefore evident, that no regard should be paid to those, who hold this art in derision, and consider it as poor and trifling. It is the sure foundation of an Orator, and without it any superstructure will unavoidably fall to the ground. It is necessary to youth, pleasing to more advanced years, the sweet companion of private hours, and the only of all our studies that has in it more solidity than ostentation. . \* .

II. Now, as speech consists of the three perfections, of being correct, clear, and elegant, (for a justness of expression, the chief beauty of discourse, is comprehended under elegance) so there are many opposite imperfections, which the rule of correct speaking, the first part of grammar, must examine into. . \* .

III. To speak, and to write well, require separate rules. Speaking is founded on reason, antiquity, authority, and use. Reason, relatively to speaking, depends principally on analogy, and sometimes etymology. Antiquity recommends itself by a certain majesty, and, as I may say, religion. Authority is built on Orators and Historians. Poets in this respect are not so much to be consulted. The necessity of measure may, indeed, make them excusable, unless it be, that when two words equally suit the harmony of the verse, they prefer one to the other. Several examples of the

kind occur in \* Virgil, as *Imo de stirpe recisum. Aeræ quo congefserè palumbes. Silice in nudâ connixa reliquit.* Their imitation, nevertheless, may not be improper, because the judgment of eminent men in matters of eloquence, stands for a sufficient reason, and to go astray with such excellent guides, is honourable. Use, however, is the best master of language; and, as money to be current, requires to be struck from the die of the state, so language to be received, requires the consent of the learned. . \* .

Ancient words have not only warm partizans, but likewise grace discourse with a mixture of majesty and delight; for together with the sanction of antiquity, they charm, from being disused, by an air of novelty. We must, notwithstanding, be very cautious how we use them; for often adopted, they become too remarkable; and affectation, than which nothing is more odious, makes them grate upon the ear. Neither would I have them fetched from the remotest times, and now quite defaced in our memories; such are † *topper*, and *antigerio* ‡, and *exantlare*, and *profapia*, and the poems of the Salii, which are scarce understood by their own priests. Religion having prohibited their alteration, we must hold them as things consecrated. But how faulty will a discourse be, the chief perfection of which is perspicuity, if it wants an interpreter? Therefore, as § the best of new words are such as have already been used by the learned,

\* Æn. xii. 208. Eclog. iii. 69. Eclog. i. 15.

† Cito.

‡ Valde.

§ So Turnebus explains this passage, which I take to be the truer sense.

so the best of the ancient are those which have the beauty of novelty.

The same may be said of authority; for though we are not wrong in using the manner of expression of illustrious authors, yet we should not regard so much what they have said, as what they have persuaded. Who now could endure the hazarding of \* *tubercinabundum* and *lurcabundum*, though Cato's authority may be cited for them? The like judgment may be passed on the *bos lodices* of Pollio, the *gladiola* of Messala, the *parricidatum* of Coelius, and the *collos* of Calvus, all which expressions, they themselves, if now existing, would have rejected.

Use, or custom, is the last article that remains to be examined; and hereupon I cannot help thinking it somewhat ridiculous, that some people should prefer the ancient manner of speech to the modern. This ancient manner, what is it, but the ancient custom of speaking? But a farther reflection is here necessary, and it will not be improper to determine what ought to be understood by the word *custom*. If the appellation is borrowed from what is commonly done, it will be productive of very dangerous consequences, not only in regard to language, but, what is a much more important concern, in regard to the conduct of life. What is it that adds to our happiness? Is it not to behold the world improved in goodness? If pernicious modes are now in † request; if the taste of the town

\* Meaning one that devours or gobbles up with exceeding great haste and avidity.

† By *velli*, in the Latin text, is understood an effeminate practice of the Romans, in plucking out the hairs on their bodies,

town is for adopting the effeminacy of adjusting the hair into ringlets; if debaucheries are indulged at bagnios; shall these be reputed the custom, though they may have spread over the city? No, not one of them can be free from reprehension; all good men condemn them. But to bathe, to shave, to partake of the pleasures of the table in virtuous company, is a custom; and in language, the case is similar: follow the general manner, your discourse will be corrupt; you will discover a thousand improprieties in the mouths of the vulgar and the ignorant: the theatres, and all the public\* places in the city ring with barbarisms. I shall therefore call the genuine custom of speaking, the consent of the learned; as that of living, the approbation of honest men.

IV. Having pointed out the rule of speaking, I shall here add a few words on that of writing. The Greeks call it orthography; and we, the science of writing correctly. Unless custom otherwise directs, I would have every word written, as pronounced: for the use and business of letters, is to preserve sounds, and to present them faithfully to the eyes of the reader, as a pledge committed to their charge. They ought therefore to express what we have to say.

These are chiefly the two parts of grammar, which treat of correct speaking and writing. As to the other two, calculated for shewing the force and beauty of discourse, I deprive not grammarians of them, but shall reserve them for that part of this

bodies, to make their skin sleek and smooth. See Juvenal and Persius.

\* Particularly the Circus.

work,

work, wherein I intend to explain the functions of a Rhetorician.

Some perhaps may repute what I have hitherto said, as trifling, and think it an obstacle to my greater design. I do not, indeed, pretend that the Orator should descend to all the insignificant niceties of grammar: their study, no doubt, would embarrass the conceptions of his mind, and dull the sprightliness of his genius. But nothing of grammar can be of prejudice, but its superfluities. Was Cicero less the Orator for his exact observance of the precepts of this art? We see by his Epistles to his son, how strictly he charges him to perfect himself in the propriety of language. Did Cæsar's books of analogy weaken his manly thought and expression? Is Messala less elegant, for having composed whole volumes, not only on words, but letters? This knowledge is only hurtful to those who make a particular study of it; but not to him, who but cursorily considers it, with a view to other attainments.

#### C H A P. V.

*What books are fit for Children to read, and of the method of teaching them to read.*

I NOW proceed to reading, which cannot properly be directed by any set rules, practice and actual teaching being the only methods for informing a child, where he is to draw breath, where he must divide the verse, where the sense begins and ends; when the voice is to be raised and lowered, and when it is to be changed and bent into a quick

or slow, vehement or gentle tone. There is one thing, however, I recommend in this respect; and this is, that the child be made to understand what he reads; for so, he will be the better able to acquit himself of every particular. Let therefore especially his reading be manly, tempered with a mixture of gravity and sweetness; not indeed in the tone of prose, as it is a poem he reads, and poets shew that they observe harmonic proportion: still should it not retain, as now generally practised, the modulation of an air of music; neither ought it to be softly \* thrilled into feminine smallness. These affected strains in reading were censured by Cæsar, whilst yet but young: "If you sing, said he, you are a bad singer; if you read, you sing." I would not likewise have † Prosopopeias, as some fancy they should, be pronounced in a theatrical manner; all that is required, is a slight inflexion of the voice, for making a distinction between what the poet says, and what he makes others say.

There are other things needing great precaution, and principally the teaching of children, not only what is beautiful and eloquent, but in a greater degree what is good and honest, because their yet tender and untutored minds are susceptible of deep impressions. The reading therefore of Homer and Virgil first, was wisely instituted; though to be

\* *Plasma*, in the Latin text, is interpreted by some a certain potion for taking away the harshness of the fauces, and clearing and mellowing the voice. *Liquido cum plasmate guttur mobile collueris.* PERS. Others take it for an affected softness and delicacy of the voice, and a mincing of words. *Vocem eliquat, et tenero supplantat verba pæcto.* PERS.

† *Speeches*, put into the mouths of the different characters in a poem.

fenfible of their beauties, is the bufinefs of riper judgment: but there is time enough for this, as they will be read more than once. The majesty, however, of heroic poetry will give them an elevation of thought; the importance of the fubject will infpire them with noble conceptions; and their hearts, at the fame time, will be corrected by the beft of precepts.

Tragedy and lyric poetry are likewise conducive to nurture the minds of children; but of the latter, fome felect passages only ought to be read, becaufe Greek lyrics are written with greater freedom, than can be tolerable to a chafte ear, and Horace in fome parts I would not choofe to explain. As to elegies that treat of love, and \* Hendecafyllables upon immodest fubjects, I would not have them, if poffible, put into childrens hands; at leaft, they are better referved for years of wifer reflection. I fhall fpeak in its † place of the advantages of comedy, which may greatly contribute to the improvement of eloquence, by reason of its affumed prerogative for painting the manners, and characters, and paffions of mankind. When morals run no rifque, comedy may be a principal ftudy. I fpeak of Menander, not to exclude others, even the Latins, who are not without their utility. But youth fhould be made

\* The meaning of the Latin text runs thus: “ And Hendecafyllables, wherein are scraps of Sotadean verfes. (As for Sotadean verfes, according to their intentional conftruction, I would not have them even mentioned.) Sotadean verfes have frequent cæfuras or falls; and their fignification is different, as read either backward or forward. Sotades, a poet of Alexandria, was the author of them; and their fubject was moft commonly obfcenities.

† Book x. c. 1.

to read such books as enlarge their minds, and strengthen their genius; for erudition will take place of itself in more advanced years.

Though more of genius than art appears in the compositions of the old Latin poets, they may notwithstanding be of singular advantage on account of their energy of expression. Majesty may be found in their tragedies, elegance in their comedies, and, I may say, a kind of \* Attic taste. The œconomy of their pieces is still better conducted than that of the generality of the moderns, who study nothing so much as flashy and striking thoughts, which they falsely imagine to be the perfection of all good writing. It is undoubtedly in the works of the ancients that we must seek for those noble sentiments, and that manly character of writing, which have been obliterated from among us, since delicacy and refinement in all sorts of pleasure, have vitiated our style with our manners. We may safely abide by the authority of the greatest Orators, who have cited the verses of ancient poets, either as an embellishment to their eloquence, or as proofs for their pleadings. Cicero, Asinius, and their contemporaries, interspersed their discourses with verses of Ennius, Accius, Pacuvius, Lucilius, Terence, Cæcilius, and other poets, which adorned them with the graces of erudition, whilst at the same time they proved a source of pleasure to the auditory, whose ears beginning to disgust the clamorous contentions of the bar, were refreshed with the variety of poetical numbers. Add to this the great advantage on the Orator's side,

\* By ἀττικισμος, is not here meant the purity and refinements of language.

when he confirms the matter in debate with the illustrious testimony of some bright thought of these great men. What I first inculcated regards children; the last reflections are for adults, that the study of grammar and love of reading may not seem limited by the time we spend at school, but rather extended to the last period of our lives.

When a grammarian first explains a poet, he should make his pupil conversant with some small matters, such as the construction of words, by interrupting the order of the verse; as also the respective properties of the feet, which ought to be so thoroughly known in poetry, as not to be wanting in the reading of prose; and besides these he should point out all barbarisms, improprieties of speech, and words compounded contrary to the rules of speaking: not that poets are reprehensible on this account, for the allowances made for measure are so considerable, that we even disguise these faults under the titles of \* figurative expressions, and honour, as it were, necessity. But the grammarian will not be wanting to point out these poetical † licences, and wherever children meet them, their memory will suggest what they ought to call them.

It will not be amiss likewise, in the first rudiments, to teach the different significations of words as they occur; and to explain those that are not

\* *Metaplasmos*, &c. *Metaplasmus* is a figure, when some letter in a word is changed upon the account of verse, ornament, or necessity. *Ainsworth's Dictionary*.

† This passage is obscure, and of doubtful meaning. Rollin explains it as follows, but seems not satisfied with the sense: "That he may give them notice of such words as are peculiar to the poetical art, and make them remember perhaps the same words used elsewhere."

much in use. This last duty is not the least of a professor of grammar; but a more important consists in teaching all tropes, which add such extraordinary beauties to prose and verse; and with these, the figures of \* thoughts and words; of both which I shall treat when I come to speak of the ornaments of discourse.

But a master will not forget particularly to inculcate the benefit that accrues from laying down a regular plan of any composition; the decorum that is to be observed in things; what is suitable to each character, in what consists the beauty of sentiments and force of expression; where a copious style may be pleasing, and where conciseness is requisite.

Next comes history, in which youth should be well versed, but not to such exactness, as to load their memories with its less useful parts. It is enough to give them an insight into what is commonly received, or at least to make them acquainted with the facts recorded by the most eminent. For, it will be either exceeding troublesome, or a ridiculous piece of vanity, to want to know what has been said by every pitiful writer, which must clog the mind, that may attend with more utility to other matters. He that is curious to read every nonsensical pamphlet that comes out, may as well apply himself to learn all the fooleries of old women's tales. Grammarians stuff their commentaries with many embarrassing remarks, which they scarce can give a reason for themselves. It is well known what happened to Didymus, the

\* *ὁμοιωμάτων καὶ μεταφορῶν*

greatest \* compiler of books that ever existed. A piece of history was related to him ; he treated it as fabulous ; one of his own books was produced to authenticate it ; Didymus was confounded. Hereby we see the shameful extravagance of romance, which gives a handle to every idle fellow of fabricating any fanciful story, and quoting in support of it, books and authors that never had a being in the world, thus presuming he may lie with safety ; though to deceive the learned in subjects which have been actually written upon, is next to an impossibility : whence I shall reckon it among the accomplishments of a grammarian to be ignorant of a good many things, in the main, not deserving of any notice.

## C H A P. VI.

*Of the first Exercises in the grammar-school.*

I Have treated every material article belonging to the two parts of grammar, that comprehend the rules for speaking, and the explanation of authors ; the first of which grammarians call methodical ; the second, historical. We must also commit to their care children's first exercises, which may keep them employed till of proper age to be sent to the rhetoric-school. *Æsop's* fables may follow naturally those of their nurses : Therefore, let them learn to relate these fables in plain words, devoid of any elevated turn ; next, to divest them of that plain dress they gave them, and to express

\* A famous grammarian of Alexandria, who lived in the time of Augustus Cæsar, and is said to have wrote three thousand five hundred books,

them

them in a more elegant style. This is effected, by first breaking the verses, then explaining them in other words, and lastly by giving them a bolder turn in a free paraphrase, whereby they are allowed, provided they keep to the sense of the poet, to touch slightly on some places, enlarge on others, and embellish the whole with little ornaments. This is an exercise, in which the best masters find some difficulty; and a boy, who in this respect can acquit himself tolerably well, will undoubtedly be capable of attempting any thing else with success. What goes under the denomination of \* chrias, sentences, and ethologies, which are remarkable words spoken for some reason or other, ought likewise to make a part of the grammarian's function, as sometimes occurring in the reading of authors, from whom they are extracted. They are all constructed by the same art, but different in form. The sentence is a term of universal acceptation; ethology regards manners and persons. There are many kinds of chrias. The first, like the sentence, conceived in a few words: as "dixit ille," aut "dicere solebat;" 'he said,' or 'was accustomed to say.' The second, by way of answer: "Interrogatus ille:" vel, "cum hoc ei dictum esset, respondit:" 'being asked,' or 'when this was said to him, he answered.' The third, little different from the foregoing, as when one has not spoke, but done something, (for chrias are supposed to extend also to facts), as "Crates cum indoctum puerum vi-

\* Chria, is the commemorating of a saying, or fact, or both, referred to a certain person. Ethology is a species of chria, indicating a person's manners.

disset, pædagogum ejus percussit:" 'Crates observing a lad who had learned nothing, struck his master.' There is another nearly resembling this; yet none dare to call it so, but only a \* sort of chria; as "Milo, quem vitulum affueverat ferre, taurum ferebat." 'The beast that Milo accustomed himself to carry when it was a calf, he carried the same when it was a bull.' In † all these the same case is used, and a reason is given for each fact and saying. As to the little narratives we meet with in poets, I think, that to understand them is sufficient for children, without explaining them according to the rules of eloquence. There are other things of greater consequence, made over by our ‡ Latin rhetoricians to grammarians; but the Greeks are more exact in distinguishing and keeping to the respective duties of teaching.

## C H A P. VII.

*That children are to be instructed in several arts before they are consigned over to the study of rhetoric. Whether these arts are necessary to the future Orator?*

THIS is what I had to say in as brief a manner as I well could of grammar; not that

\* χρισμός.

† All these chrias retain commonly the same form, and the same cases in the beginning. But grammarians observe the cases to be thus restricted. "M. P. Cato dixit literarum radices amaras esse, finitus jucundiores. M. P. Catonis dictum fertur, &c. M. P. Catonem dixisse ferunt, &c."

‡ See what is said of them in the first chapter of the next book.

I pretend to have exhausted the subject, which is infinite; but only to have pointed out the most necessary particulars. Now, I will throw together some reflections on the other arts, which youth ought to be instructed in, before they are sent to the rhetoric-school, in order to form that circle of sciences, which the Greeks call \* *ἐγκυκλοπαιδείαν*. There being many sciences, the study of which ought to begin almost at the same time, a question may here arise, whether these sciences are necessary to this work? As arts, Oratory cannot be perfect without them: taken separately, they are not capable of constituting an Orator. But to plead a cause, or give an opinion, where is the necessity, says an opponent, of knowing that on a line given, we may form an isocels triangle? Or, does the defending of a client, or enforcing counsel by persuasive arguments, require the skill of distinguishing by names and intervals the different tones of an instrument of music? They may also reckon up, how many Orators had rendered themselves illustrious at the bar, who had never either heard of geometry, or understood music otherwise than by the pleasure of the ears, which is common to all.

To these insinuations I make answer, according to what Cicero often declares, in his book of illustrious † Orators, to Brutus, that we form not an Orator on the model of those, who are, or have been; but that we have conceived in our mind the image of that perfect Orator, to whom nothing is wanting. The Stoics, to form their perfect sage,

\* *Encyclopædia*, or *Cyclopædia*, a circle of sciences.

† Orat. 7.

and, as they say, a God, though subject to mortality, think, that he must be versed, not only in the knowledge of all divine and human things, but they also lead him through all intricate ambiguities, things inconsiderable in themselves; not that \* captious and sophistical arguments constitute a Sage, but that they would have him incapable of being deceived, even in the smallest matters. In like manner, it is not geometry, nor music, nor any other art, which of itself can make an Orator, who must likewise be a sage; but these arts will contribute to his being consummate. Are not antidotes and other medicines prescribed for diseases and wounds, compounded of many ingredients, which separately produce contrary effects, but mixed, become, as it were, a specific, extracting healing virtues from all the constituent parts, without resembling any one of them? Do not bees sip their honey from a variety of flowers and juices, the taste of which is inimitable by human invention? Shall we then be surprised if eloquence, the most excellent gift providence has imparted to mankind, should require the assistance of many arts, which, though they might not manifest themselves in the Orator, yet have an occult force, operating imperceptibly, and tacitly giving warning of their presence. Such were good speakers without these

\* *Ceratinæ*, Dilemmas, called by logicians *Argumentum Cer-  
nutum*, for striking or butting with two horns, wherein what-  
ever you grant the adversary, tends to your disadvantage.  
“ You have the horns, *κίματα*, you did not lose. You did not  
lose any; therefore you have horns.” AUL. GELL. l. 16.—  
*Crocodolinæ*, problems which cannot be well solved. “ A  
Crocodile, when he had promised a woman he would restore  
her son to her, if she told him truth; she said, you will not  
restore him.” LUCIAN *ἰς βίαν πρᾶτον*.

arts ; but I will have an Orator. They add not much, but I must have a complete whole, and to make this whole, nothing must be wanting ; for so it must be confessed to be perfect. How elevated soever its sphere be above us, it is our intention to give all necessary precepts for making the nearest possible approaches. But why should we despair ? Nature is no obstacle to the perfect Orator. Despair is mean and base, when a thing is practicable.

### C H A P. VIII.

#### *Of Music and its Advantages.*

**I** Might content myself in what I am going to say, with the testimony of the ancients ; for who is there but knows, that music, (to begin with it,) was not only a study of the first times, but was even held in so great a degree of veneration, that its professors were honoured as Sages, and as men divinely inspired ? Not to mention others, were not Orpheus and Linus believed to be the offspring of the Gods ? Orpheus, because he polished the manners of an ignorant and rustic people, and astonished their minds with the harmony of his music, was supposed, as we have it from tradition, not only to have drawn after him wild beasts, but rocks and woods. Timagenes relates, that music is the most ancient of all sciences ; and of this the most illustrious poets give testimony, who at the banquets of kings, introduce musicians tuning to their lyre the praises of Gods and heroes. Does not Virgil's \* Iopas sing,

The wand'ring moon, and labours of the sun ?

\* *Æn.* i. 746.

Whereby this great poet plainly shews, that music is nearly allied to the knowledge of divine things ; which if allowed, it must likewise be granted, that it is necessary to an Orator ; because this part, neglected by Orators, and taken possession of by philosophers, we have a right to reclaim, and therefore it must belong, as all other sciences, to the perfecting of eloquence.

It cannot be questioned but that they who distinguished themselves for wisdom, were greatly devoted to the study of music. Pythagoras, and his disciples, published the opinion, which, no doubt, they received from more ancient Sages, of the world's being the effect of harmonical proportion, the modulations of which were afterwards imitated by the lyre : and not content with the harmony, perceived to be constantly propagated amidst contraries, they also attributed musical tones to the celestial spheres. Plato has made so many dissertations on music in his writings, that in some tracts, especially in his *Timæus*, he cannot be properly understood, but by those who are thoroughly intelligent in the art. What do I speak of philosophers, whose fountain, Socrates himself, did not blush, even in old age, to learn to play upon the lyre ? History acquaints us of great commanders of armies playing upon pipes and lutes. The Lacedæmonians were fired to battle by musical strains. To what other use are clarions and trumpets in our legions ? whose sounds, by how much they are vehement and piercing, by so much the Roman military glory exceeds that of all others. It is not therefore without reason Plato believed,

that music was necessary to those, whose abilities might promise them the government of commonwealths: and the authors of the sect, which seems so severe to some, so austere to others, allowed some of their sages to be conversant in this study. Lycurgus, that rigid Spartan law-giver, recommended the use of music. Nature herself seems to have bestowed it on us for mitigating our anxieties. Let us consider those, who are labouring at the oar in galleys; does not music give them life and spirit? This appears, not only in painful works, where many unite their efforts by the signal of some pleasing voice; but even each person has some favourite air for allaying fatigue and deceiving trouble.

But I seem to dwell more on the eulogies of this charming art, than to shew how it may be applicable to the Orator. I need not mention what is said of grammar and music being formerly united, though Architas and Aristoxenus were of opinion, that grammar was comprehended under music, and that both were taught by the same masters, following in this Sophron, a very facetious comic writer, whom Plato so much esteemed, that it is said his books were found under his head on his death-bed. Eupolis asserts the same thing in regard to Prodamus, whom he characterizes as a teacher of music and grammar; and Hyperbolus, whom he calls by derision Maricas, confesses he knows nothing of music, but grammar. Aristophanes assures us in more than one place, that this was the ancient method of instructing youth: and Menander, in his comedy, called *Hypobolimæum*, introduces a father taking his son out of a boarding-school, before

fore whom an old governor of the school, sums up what he expended upon his son's education, and gives him a bill, wherein was so much paid to a master of geometry, and so much to a music master. Hence came the custom of handing about a lyre at the end of an entertainment; and because Themistocles, when that instrument was presented to him, declared he knew not how to play, to speak in Cicero's \* own words, he was reckoned a person of no polite education. It was customary with the ancient Romans to procure the amusement of pipes and lutes at their banquets: the verses of the Salii are set to music; and, as these institutions proceed from King Numa, it is evident, that though the thoughts of the first Romans were turned to warlike exploits, they did not neglect the improvement of music, in as great a degree as could reasonably be expected from persons who lived in so unpolished an age. In short, it has passed into a proverb with the Greeks, that the illiterate must have no commerce with the † Muses and Graces. But let us see in what respects this art may belong to the Orator.

Music has two numbers; the one in the voice, the other in the body. Each of these requires a certain regulation. Aristoxenus, the musician, divides what regards the voice into rythms and measured melodies. By rythms he understands the structure of words, by measured melodies the airs and sounds. Are not all these deserving of the Orator's notice? Must not his body be formed to

\* Tusc. i. 4.

† The Goddesses that preside over polite literature and music. The illiterate were called by the Greeks ἀγραμμοί, ἄγραμμοι.

regular gesture? Must he not in composition place his words in proper order? Must he not in pronouncing use certain inflexions of his voice? All are undoubtedly necessary qualifications for an Orator, unless we think that a chain of words, amusing agreeably the ear, ought to be wholly restricted to songs and verses, and therefore useless in oratory; unless also, the Orator was not to diversify his composition and pronunciation according to the nature of the things he speaks of, as well as the musician, whose compositions, according to their respective qualities, must be expressed and sung differently. For, the grand and sublime are best suited by loud and strong tones, pleasant by sweet, gentle by soft; the beauty of the musical art depending intirely on entering into the passions, and making them a lively picture of what is expressed. In like manner, the Orator, according to the various inflexions of his voice, will differently excite the passions of his auditors. By such an order of words, by such a tone of voice, he rouses the indignation of the judges, and by such he bends their hearts to pity. Who now can doubt of the power of words, when even musical instruments, which cannot form the articulate sounds of speech, so many different ways affect us?

A graceful and proper motion of the body is likewise necessary, and cannot be otherwise derived than from this art; but as it makes a considerable part of action, we shall speak of it in its \* place. And indeed, if an Orator pays due attention to the conducting of his voice, what can be so essential

\* Book xi. c. 3.

to him as music ? But, as I must talk of the voice elsewhere, I shall here content myself with one example, which is that of Caius Gracchus, the greatest Orator of his time, who, when he harangued the public, kept always behind him a musician to guide by the sounds of a hautbois the different changes of his voice. This custom, either dreaded by, or dreading the nobility, he punctually observed in all his speeches, which were generally attended by the greatest number of people that ever met together on such occasions.

For the sake of those who know but little of the matter, I shall endeavour to clear it up by a more familiar proof. It will be granted, that the reading of poets is necessary to the future Orator ; but are poets destitute of music ? If one is so devoid of understanding as to doubt that some poets are musical, at least, it must be confessed that poems composed for the lyre cannot be read without some harmonic strain. I should enlarge farther, if it was a novelty I had a mind to enforce ; but as this accomplishment has been recommended and has taken place from the remote times of Chiron and Achilles down to ours, with the approbation of all lovers of good education, a longer discussion might raise a doubt concerning its degree of utility.

It may sufficiently appear from the above examples, how much I esteem music, and what kind of music I approve of. I must, however, declare my real sentiments, that in no wise I recommend the music, which seems now to be the reigning taste in our theatrical exhibitions, and of which the wanton, soft, and lascivious airs have in a

great measure ruined all the little manly virtue that remained in us. The music I mean is that whereby the brave sung the praises of the brave. Neither do I approve of those \* instruments of music, which by languishing sounds emasculate the soul of all its vigour. Virgins, who regard their modesty, ought to have them in horror. The only music, is that engaging melody, which touches the heart, and moves, and soothes the passions, according to the dictates of right reason. It was so we hear that Pythagoras repressed of a sudden the fury of some hot-headed young men, who were intent on dishonouring an honest family, had not he commanded a woman that played on a flute for them, to change her notes and play something more grave. Chrysiippus prescribes a sort of air for nurses to lull infants asleep; and there is an ingenious fiction for a subject of declamation, on a piper's playing a † Phrygian air whilst a man was offering a sacrifice. As hereupon he was seized with a phrenzy, and threw himself from a precipice, the piper might stand accused of being the cause of his death. An Orator, to be master of this subject, must be supposed not unacquainted with music; how then shall it not be granted, even by those who are quite prejudiced against us, that this art is of considerable advantage to our design of forming the Orator?

\* *Psalterium*, a musical instrument with ten strings. *Sjadices*, in the nature of a dulcimer.

† The Phrygian airs were brisk and vehement, rousing all the passions of men, and often driving them mad.

## C H A P. IX.

## Of G E O M E T R Y.

**T**HERE are some parts in geometry generally allowed to be of use to children, as by them the mind is exercised, the wit sharpened, and a readier and easier conception procured. But it is said, that the use of geometry is not so extensive as the other arts, being only of service for the time we learn it, and no longer. This is the vulgar opinion, but dissented from by the greatest men, as appears by their assiduous application to the study of this science.

Geometry is divided into two parts, numbers and dimensions. The first is necessary, not only to him who is but slightly acquainted with letters; but more especially to the orator, who must frequently state an account; for should he in pleading be at a loss in summing up an exact total, or should he make a motion with his fingers, which disagree with the number he calculates, all would be apt to harbour an ill opinion of his sufficiency. The second, consisting of lines and dimensions, is not less necessary in the pleading of causes, as many law-suits happen concerning meers and bounds. But this science has a more intimate connection with the art of oratory.

First, order is essential to geometry, so also it is to eloquence. Geometry lays down principles, draws conclusions from them, and proves uncertainties by certainties: does not oratory do the same? Geometry reduces its proofs into a syllogistic form, and therefore many think it partakes more  
of

of the nature of logic than rhetoric. But, because the Orator seldom proves logically, will it be said that he never does? When the matter so requires, he will use the syllogism, or at least the Enthymeme, which is the true rhetorical syllogism. In short, the strongest proofs are those that go by the name of \* geometrical demonstrations: and, as the end of geometry is to prove evidently, can eloquence have any other end?

Geometry likewise evinces by reason a falsehood in verisimilitudes. In numbers, it shews the error of some † calculations, in appearance right. This gave rise to several little questions, which made part of the amusements of our childhood. But there are things of greater moment; for who would not assent to this proposition as true: "all places of equal circumferences have equal spaces." This is false; for we must know the figure of this circumference, and therefore historians are justly found fault with by geometricians, for determining the extent of islands by the circuit of navigators. Now, the more perfect a figure is, the greater will be the space it contains: If therefore the circumference makes a circle, which is the most perfect figure in planes, it will comprehend a greater space, than if it formed a square of equal circumference. By the same reason, squares will contain a greater space than triangles; and triangles with equal sides, a greater than triangles with unequal. I could cite other particulars of this kind, but as perhaps involved in greater obscurity, shall attend to an experiment adapted to every one's capacity.

\* γεωμετρικὰ ἀποδείξεις, demonstrations by the way of letters.

† ἀριθμητικὰ.

There are few but know, that an acre contains two hundred and forty feet in length, and the half of this number of feet in breadth ; whence it is easy to judge of its circumference and surface. Now, let us suppose a square, of which the sides are a hundred and eighty feet each. The circumference of this square will be exactly equal to that of the acre, yet its area makes a greater space, which if one should not choose the trouble of computing, it may be readily perceived in a less number. A square, whose sides are each of ten feet, have forty in circumference, and the surface will make a hundred feet square : add fifteen feet in length to five in breadth, you will have the same circumference, but the space will be less by one fourth. A parallelogram of nineteen feet in length, and one in breadth, will make a circumference of forty feet, as well as an exact square, whose surface is a hundred feet square ; but it will contain only in surface, as many feet square as it has feet in length. Therefore whatever is subtracted from the figure of an exact square, lessens the surface ; and consequently a less space may be contained in a greater circumference. I speak of flat surfaces ; for it is evident, that mountains and vallies have a greater extent in their surfaces than there is of sky or air corresponding to them.

Geometry is not limited by the just mentioned advantages : it soars to the knowledge of sublimer matters ; it lays the world open to our view, and displays all the wonders of nature. From the precision of its calculations we learn that the course of the celestial bodies is regulated by a constant and never failing equability of motion impressed  
on

on them ; an illustrious argument, that chance could never be the cause of all this symmetry and proportion. This, surely, is a theme worthy of an Orator, and he sometimes must have an occasion to treat it with becoming dignity. When Pericles explained to the Athenians the natural causes of an eclipse, by which they were much terrified ; when Sulpitius Gallus, in the army of Lucius Paulus, predicted an eclipse of the moon, to prevent the soldiery being affrighted by it, as by a prodigy sent from heaven ; did not both acquit themselves of the function of Orators ? If Nicias had their knowledge, he would not, seized by a like panic, have lost a fine army of the Athenians in Sicily. When Dion came to expel Dionysius, the Tyrant, an accident of this kind did not in the least dismay him. Warriors may avail themselves of such examples ; but what shall I say of Archimedes, who alone by his geometrical skill, found means to protract to so great a length the siege of Syracuse ? To conclude, there are numberless \* questions, which we are at a loss to solve, unless we adopt the linear demonstrations this science furnishes us with ; so that, if it be incumbent on the Orator, as we shall shew in the following book, to discourse indiscriminately on all subjects, we may naturally suppose that this cannot be effected without the help of geometry.

\* As concerning the manner of dividing and multiplying ; progressions in infinitum ; and the divisibility of matter in infinitum.

## C H A P. X.

I. *That pronounciation is to be formed by that of Comedians.* II. *And gesture and attitude copied from the Palæstra.*

I. **I**T will not be amiss also for our Orator to receive some instructions from comedians, in order to the forming of his pronounciation; but I pretend not that a youth destined for these hopes, should play the buffoon, assuming in mimic form the small voice of a woman, or the tremulous accents of an old man. Neither would I have him personate the drunkard, or descend to the scurrilities of a valet; much less would I have him learn the passions of love, avarice, and superstition. All these are unnecessary to an Orator; and, as the imitation of what is vicious generally grows into a habit, so young minds seldom fail to imbibe the infection.

All sorts of gestures and motions must not be borrowed from comedians; because an Orator, forming himself in some respects on their model, ought not to affect a theatrical air. His action, his gait, his countenance, should be quite different. What is supportable in the one, would be quite ridiculous in the other; and if there be an art in these particulars, I should think the Orator's greatest art would be to conceal them.

But what herein is the duty of a master? It is to correct all faults of pronounciation; to take care that words be exactly expressed, and that every letter have its proper sound. The sound of some letters is vitiated by mincing; others we  
pronounce

pronounce too thick or broad; harsh letters we either drown or exchange for others not unlike them, but of a more obtuse sound; as of the ρ, which Demosthenes had some difficulty to pronounce, the λ takes the place, the powers of both which are the same also in Latin. *C* and *t* are softened by *g* and *d*. The affectation of sounding the \* *s*, which some think very pretty, ought not to be suffered: neither ought speaking in the throat, or with a gaping mouth, or with a twist of the mouth, to give a word a fuller sound than it has. This the Greeks call χαταπιπλασμένον; and the same term is also used by them to signify a way of playing upon flutes, when by stopping all the holes that cause the louder tones, one only passage is left for producing a base.

A master, in like manner, ought to be careful, that the last syllables be not lost in a word; that the pronunciation be consistent with itself; that in exclamations the effort proceed rather from the lungs than head; that the gesture correspond with the voice, and the countenance with the gesture; that the face be in a strait position; that the lips be not distorted; that immoderate gaping distend not the jaws; that the visage be not tossed upwards; that the eyes be not downcast, and the neck inclined to either side. The forehead trespasses in a variety of respects. I have seen several, at every effort of the voice, raise their eyebrows; others knit them; and others, keep one

\* This verse of Euripides's *Medea*, ἔσωσα σ' ὡς ἰσάσιν ἑλλήνων ὕποι, has been ridiculed by comic poets, and sometimes excited prodigious laughter in the Athenians, when that tragedy was represented.

up, and the other so far down, as almost to press upon the eye. All these particulars are of singular consequence, as will be seen in the sequel ; for nothing can please but what is becoming.

A comedian ought likewise to teach, how a narrative is to be pronounced ; what a degree of authority is necessary to persuade ; what tone of voice best suits anger, and what, pity. In order to this, he may select such passages from plays, that nearest resemble pleadings at the bar, which will be useful for forming not only the pronunciation, but also very proper for augmenting eloquence. What I here say, is for our Orator's weaker years ; but when riper age makes him capable of greater things, he must read the speeches of Orators ; and when he begins to be sensible of their beauties, then must a skilful master use all his diligence, both to give him a taste for reading, and oblige him to commit to memory the most striking parts, and next to declaim them, as if he was really pleading. Thus it is, that his voice and memory will be exercised by pronunciation.

II. I find no fault with those, who sometimes resort to schools of palæstic exercises. I mean not the places, where people pass away one part of their lives in suppling their joints with oil, and another part by drowning their senses in wine. These I would keep at a due distance from our Orator. But I mean the places, (for the Latin word *palæstra* signifies both), where young persons are taught a graceful carriage. To this may belong the manner of keeping the arms in a strait position ; refraining from fiddling with the hands, as clowns ; standing in a graceful attitude ; walking with a  
good

good air ; and making no motions with the head and eyes that disagree with the other motions of the body. All these are accessions to grace pronunciation, a thing so essential to an Orator. Why then should what is necessary to be known be neglected ? We find, that the rules for \* gesture originated from the times of heroes ; that they were approved of by the greatest men of Greece, even by Socrates himself ; that Plato gave them a place amongst civil virtues ; and that Chrysippus did not omit them in his precepts for the education of youth. We learn from history, that the Lacedæmonians had among their exercises a sort of dance, which their youth were made to learn as an useful accomplishment for warfare. The ancient Romans thought the like practice no disparagement to them, and dancing is still retained by some of our priests in the solemnities of their religious ceremonies. Cicero gives us his sentiments of gesture in his third book of the Orator, where Crassus has these words. “ An Orator, says he, must have something noble and manly in his whole action ; and he must form it, not on the model of a stage-player, and buffoon, but on that of a man trained to arms, or a proficient in the academy of exercises.” This manner of discipline has descended to us, is still in use, and without reproof ; but in my opinion, should not go beyond our younger days, and then even be not long continued ; for it is an Orator I form, and not a dancer.

\* *Chironomia*, in the Latin text, is the gesture of gesticulating dancing. It is also the rule of gesture and motion, which name it has got from the regulating of the hands, because the chief part of gesture consists in the propriety of their motions.

This

This benefit, however, will accrue from it, that without thinking, and imperceptibly, a secret grace will mingle with all our behaviour, and continue with us through life.

## C H A P. XI.

*That children are capable of being taught many things at the same time: 1. Because the nature of the human genius is such, that it can do many things together. 2. Because boys can easily bear the labour of study. 3. Because they have then most time for the purpose.—That indolence, or a lazy disposition, is the cause why Orators do not learn many things.*

IT may be asked, whether all the above recited articles can be taught and learned at the same time, even supposing they are necessary to be known? Some will imagine they cannot, because so many sciences of different tendency, by bringing confusion into the conception, and withal harassing the attention, neither the body; nor mind, nor length of the day, divided between such a diversity of study, would be sufficient to hold out; and though more robust years might undergo the toil, it should not be presumed that the delicate constitutions of children could be equal to the same burden.

1. They, who may reason in this manner, are not sufficiently acquainted with the nature of the human wit, which is so active, quick, and keeps such a multiplicity, as it were, of points in view, that it cannot restrict itself to the doing of one particular thing, but extends its powers to a great many, not only during the same day, but likewise

during the same instant. What shall I say of a man playing on a harp? He touches one string, stops another, tries this, tunes that; every thing is employed in him at the same time, his memory, his voice, his right hand, his left, even his feet are not idle, they regulate the time, and beat the measure. Let it be supposed, that by some unforeseen accident we are obliged to plead a cause. Will not our intuition variously divide and multiply itself? We say one thing, think of another, invent reasons, make choice of words, and adapt pronunciation, countenance, gesture, to the nature of the cause. If therefore we execute all this, as I may say, by a single exertion; what must hinder our application, on having several hours for reflection, especially when variety refreshes and renovates the mind? The case is different, and more painful, to persevere in one and the same study. Composition and reading by turns, wear away the weariness either may create; and though we have done many things, we in some measure find ourselves fresh and recruited at entering on a new thing. To be tied down, a whole day to one master, fatigues greatly; but to have changes, is a recreation: just so, a variety of meats revives the appetite, and preserves it longer from being sated.

I should be glad to be informed of any other way for learning? Must we intirely devote ourselves to grammar only, and afterwards to nothing but geometry? Must we neglect in the meantime what we have learned, when we apply ourselves to music, and so forget all that went before? Must we be confined to Latin, without a retrospect to Greek? In short, must nothing be done.

but

but what presents itself last? Why do we not advise our farmers, not to cultivate at the same time their fields, vineyards, olive-grounds, and shrubs; or dissuade them from taking care of, at the same time, their meadow grounds, their cattle, gardens, and bee-hives? Why do we ourselves every day allot something to the bar, something to oblige our friends, something to our domestic concerns, something to the care of our health, and something even to our pleasures? Any of these occupations continued without interruption, would prove very tiresome: so true it is, that it is much easier to do many things, than confine ourselves long to one.

2. We need not be under any apprehension of children not being proof against the labour of study. No age is less fatigued; and this might seem strange, did not experience shew the contrary. Childrens\* wits are more docile, before they harden by more advanced life. What I say is evinced from their speaking for the most part all words, without any person's help, in less than two years, when their tongue is once free. But as to our slaves newly purchased, how long are they before they learn to speak Latin? Whoever has taught adults, will find that it is not without reason, the Greeks make use of the term *παιδομαθητῆς*, to denote those who are as much expert in their art, as if trained up to it from their infancy. Children naturally can bear labour better than grown-up persons. We see infants fall frequently and seldom much hurt;

\* The organs of children, before they acquire a greater consistence by age, are exceeding fine and delicate, and consequently being very susceptible of impressions, their wit, when exercised, must be more docile.

their creeping upon hands and feet is scarce any trouble to them; when they can walk, they run about and play whole days together without being tired: the reason of all this is, a want of weight in their bodies, whereby but little force can accompany their efforts. In like manner, I am apt to think that their minds are less fatigued than ours, because their application, slight and superficial, does not proceed from an inclination of their own, but only to prepare themselves for receiving their master's instruction. They also, according to another capability agreeable to their years, can easily learn from those whose method of teaching is plain and simple: besides, they make no account of what they have already done, as not being able to form to themselves a judgment of labour; and hence we find, that labour is less fatiguing than thought and reflection.

3. As for time, I fancy they never will have more of it, than when young, for becoming acquainted with several branches of literature, the acquiring of which depends then intirely on hearing. When they apply themselves to learn the elegance of style, and to invent and compose anything of themselves, they cannot find time, or perhaps will not, for beginning these studies. Therefore, as a grammar-master cannot, or ought not, spend the whole day with them, for fear of giving them a distaste for learning, in what other studies can these \* leisure hours be better employed? Yet,

\* *Temporum subsidia*, are certain times, which, free from labour, are reserved, as it were, for some future use. Others read *subseciva* or *succisiva*; so the times are called, when one is at leisure from any public or private business, and these are set apart from out of them, *quasi subsecantur aut succiduntur*.

“ Succisiva

I would not have our student so conversant in these arts, as to possess them in perfection; he may have a sufficient knowledge of music, without being intelligent in the art of musical composition; and of geometry, there is no occasion to be expert in all its niceties. To form an Orator's pronunciation I do not make a comedian of him, nor a dancing-master, to grace his motions. Still, if I required all these particulars, there would be time enough. And indeed, there is time enough for those that make good use of it; I mean sprightly wits; for, as to the stupid, I say nothing of them. How did Plato excell in whatever I think the future Orator ought to learn. Not content with the sciences Athens might have furnished, nor with those of the Pythagoric sect, for which he sailed into Italy; he passed also into Egypt, to be informed by the priests of that country of all the mysteries couched under their hieroglyphic symbols.

We palliate our sloth by the specious pretext of difficulty. We do not engage in study by a love of choice and inclination. If we seek eloquence, it is not because it is the most noble accomplishment in nature, and most deserving of our care; but rather for a base end, and the desire of sordid gain. Without these requisites, let several then plead at the bar, and endeavour to enrich themselves: what will be the consequence? Notwithstanding all their toil and pains, a broker may acquire more from the sale of his sorry ware, and a public crier from the hire of his voice. For my

*"Saccisiva quædam tempora incurrant, quæ ego perire non patior."* Cic. de Leg. i.

part, I should dislike even a reader, who could think of computing the income of his labour. But give me the man of sublime genius, who can form to himself an idea of the grandeur of eloquence, which a celebrated tragic \* poet styles "the queen of all things." He it is, who keeps constantly his eyes fixed upon her. He seeks after no emoluments from his pleadings †: the fruits of his labours, are his knowledge, his contemplation, his noble thoughts; fruits perpetually abiding with him, and no way subject to the caprices of fortune. A person of this exalted character will employ in music and geometry, the time others generally mispend at shews, in the Campus Martius, at gaming, in idle talk, not to speak of sleep, and infamous revelling. His pleasure will be exquisite, attended by charms, not to be found in others, in the main frivolous, as destitute of all delicacy and refinement. For providence has granted this blessing to mankind, that the taste of pleasure is always more satisfactory in innocent amusements. But, perhaps, this satisfaction has led us too far. Let therefore what I have said, suffice for the studies youth are to be instructed in till capable of greater matters. The next book will have, as it were, a new beginning, being to treat of the duties of a Rhetorician.

\* Euripides, and in *Hecuba*, verse 816. Πρώτη δὲ τῶν ἀνδρῶν ἀρχαίτης μόνη; Eloquence the only queen among men.

† *Frustrum ex stipite advocaticum*: the fee, paid by clients to their lawyers for pleading their cause.

## B O O K II.

## C H A P. I.

*At what time a boy ought to be sent to the Rhetoric school.*

**T**HERE is a custom, which daily prevails more and more, of sending children later than they ought to be sent, to schools of eloquence. This has been occasioned by our rhetoricians having neglected a part of their duty, and by grammarians having appropriated to themselves what they omitted. Rhetoricians think it only incumbent on them to dictate subjects of declamation, to pronounce speeches composed on the plans of these subjects, and to make their pupils perform the same. All this is executed in the judicial and deliberative kinds; for they esteem other points as beneath their profession. Grammarians, not content to assume what was neglected, for which in some measure we are obliged to them, have also intruded upon figurative tracts of eloquence, called Prosopopeias, and speeches in the deliberative kind; both which are with difficulty attempted, and require to be supported by an extraordinary force of eloquence. Hence, it comes to pass, that what formerly made the beginning of one art, now makes the end of another; and it is chiefly on this account that an age, designed for higher matters, must grovel in a low class, and learn rhetoric among grammarians. Besides, what seems

to me most ridiculous, is that a lad is not fit to be sent to the rhetoric school, unless he already knows how to declaim.

Every profession, methinks, ought to be kept within its bounds. Let grammar (which, as we may judge by its name, is properly the science of letters) be acquainted with its own; especially, since it has soared so high above the poverty of its appellation, to which the first grammarians confined themselves. Inconsiderable at first in its source, afterwards augmented with an additional supply of poets and historians, it now flows in a sufficiently ample channel, by having, with the methods it prescribes for language, which are of no small extent, embraced likewise the knowledge of the greatest arts. Rhetoric too, which in its etymology implies the art and force of eloquence, should not decline any of its duties; neither should it rejoice at seeing a business taken up that belonged to itself; for whilst it neglected its function, it had been almost driven out of possession. I will not deny that there are grammarians of sufficient abilities to teach the things I mentioned; but in this case, they do the duty of a rhetorician, and not their own.

The point therefore that seems now necessary to be decided, is the time when a boy is fit to be sent to learn rhetoric. Hereupon I may say, that no particular age can be assigned for this purpose, as it must entirely depend on the progress he has made in his first studies; so that he cannot be properly sent till he is found capable. But this likewise must be accounted for by what has been observed a little before; for if the duty of grammar extends to  
speeches

speeches in the deliberative kind, which rhetoricians make the rudiments of their art, the rhetoric school may be dispensed with for a considerable time: on the contrary, if rhetoricians do not decline the first duties of their business, they will begin with narrations and little essays in the demonstrative kind. Are we ignorant that the ancient rhetoricians exercised their eloquence by common places, and theses, and other general questions, either fictitious or real, which afford matter for contestation? Whence it may be judged how shameful it is to the professors of the art, to have deserted that part, which for a considerable time made their first and only occupation. What is there in all hitherto mentioned, that is not essential to rhetoric, and does not take place in the judicial kind? Must not narrations be made at the bar? For aught I know, they constitute the most important part of a cause. Are not praise and dispraise frequent topics in pleadings? Are not common places often inserted in them, as well those on subjects of vice, of which Cicero has left us excellent models, as those of Quintus Hortensius, which treat of general questions, and contain the very marrow of the law? Some of these questions regard what may be urged for and against witnesses, as to their credibility; and whether we ought to believe on slight evidence and probabilities. These are as arms, that must be kept in readiness for use, upon occasion; and whoever imagines they do not belong to an orator, may believe that artillts begin not a statue, by first fusing the metal which is to compose its parts. However, let none here, though some may, blame me for too much precipitation, as if,

to

to deliver a youth into the hands of a master of rhetoric, I should take him away too soon from the grammarian. Both will have their time, and there is no fear that he will be burdened with two masters. The study that was confounded under one, will not be multiplied, but divided; and every master will be the more useful by discharging his respective duty. This is still observed by the Greeks, though omitted by the Latins, who seem to excuse themselves by saying, that others have succeeded to that care.

## C H A P. II.

### *Of the Morals and Duty of a Rhetoric-Master.*

WHEN therefore a boy is so far a proficient in study, as to be capable of having a just notion of the first principles of rhetoric, he must be sent to the masters of that art. Their morals are first to be examined into. Not but we ought to be equally circumspect in regard to other matters, as I hinted in my first book; but here I think the mentioning of it more particularly necessary on account of the children's age, who are almost grown up, when sent to the rhetoric-school, where they continue for some years. For this reason, greater care ought then to be taken, that the integrity of the master's morals may preserve them in the innocence of their early youth, and his gravity, commanding respect, keep them within bounds, especially in an age when a spirit of licentiousness makes them more difficultly governed: for it is not enough for him to be of irreproachable conduct, unless also he curbs them by strict discipline.

Above

Above all, let him have towards them the benevolent disposition of a parent, and consider himself as holding the place of those, who have entrusted him with this charge. He must neither be vicious himself, nor countenance vice. Austere, though not harsh; mild, though not familiar; lest the first ingenerate hatred, the second contempt. Let him talk frequently of virtue. The oftener he advises, the seldomer he will be obliged to punish. Let him not give into passion, yet let him not dissemble faults. Let him be plain and simple in his manner of teaching; patient in labour; rather punctual in making his scholars comply with their duty, than too exact in requiring more than they can do. Let him answer with pleasure the questions put to him, and when not asked, let him ask of his own motion. Let him neither refuse due praise, nor be too lavish of it; the one discourages, the other begets a dangerous security. In correcting the faults of their exercises, he should neither be tart, nor affront them. Nothing gives them so great an aversion against study, as to find themselves constantly reprimanded, which they take to be the effect of their master's hatred. Let him daily say something, nay many things to them, which they may retain and profit by; for though reading furnishes them with a sufficiency of good examples for imitation; yet word of mouth, as it is called, is of much greater efficacy, especially that of a master, whom youth of honourable principles, love and esteem; for it scarce can be expressed, by what an intire inclination we are prompted to imitate those we love.

A master

A master must not suffer his pupils to take the liberty, as is often practised, of praising and complimenting each other. The opinion of young persons ought to be very moderate and sparing; for so, they will pay a deference to their master's judgment, and think they have done right, when they have his approbation. That ill custom of applauding one another for every thing done, which now goes under the name of good nature, is unbecoming, and favours too much of the theatre; and ought, as a most troublesome enemy to study, to be banished well regulated schools. How will they be careful and take pains, when certain that whatever they babble will be received with applause? Let those therefore who hear, as well as he that declaims, have an eye to the countenance of the master. So it is, they will discern what is commendable, and what is faulty; and so, by attending to his sentiments on the performances of their school-fellows, they will acquire a facility in composition, and improve their judgment. Instead of this, now, at every period they bend forward, ready to rise, to run about, to clap hands, to cry out! Such are their mutual felicitations, and hence they derive the success of their pieces. They become afterwards so full of themselves, and so vainly proud, that if their master does not praise them to the degree they would have him, they think but indifferently of him. On the other hand, let a \* master content himself in being heard with attention and modesty. It is his pupils business to seek his approbation, and not his theirs.

\* It was customary with young gentlemen at these schools, not only to praise extravagantly their school-fellows, but also their masters. This too Quintilian finds fault with.

He may, however, take notice of the impression his words make on every one of them; and when he finds they have a sense of what is good, he may rejoice, but more on their account than his own.

I do not approve of the younger boys being seated intermixed with the greater; for though a master, such as we suppose him, be capable of keeping his scholars to a modest behaviour; yet the weak are to be separated from the robust, and base criminality so far from being committed, ought not even to be suspected. I thought it was necessary to make this short remark, because there is no occasion for hinting any thing by way of precept, to secure the master and scholars from flagrant vices. But if one is so indiscreet, as to chuse for his son a master, whom he knows to be notoriously wicked, he may be assured, that all we have hitherto said, and shall say hereafter on the education of youth, will be to no purpose, on account of this single omission.

### C H A P. III.

*Whether the best Masters at first ought to be made choice of.*

**I** Must not pass by in silence the silly opinion of many, who, when their boys are fit for the rhetoric school, do not believe it necessary to place them immediately under the care of the most eminent, but keep them for some time at schools of less repute; presuming that a master of slender abilities is more proper in these beginnings, as easier understood and imitated, and not too proud  
to

to submit to the drudgery of the first elements of rhetoric. Herein, I fancy, I shall be put to no great difficulty to shew the advantages of the best instructions, when it must appear, on the contrary, how hard a matter it is to deface the evil that has once sunk deep; to say nothing of the double burden of the succeeding master, who will have much more trouble in unteaching, than teaching: an instance of which we find related of Timotheus, a famous flute-player, who required twice as much from those who were instructed by others, than he did from such as came novices into his own hands.

But to proceed; we shall find persons of this way of thinking, guilty of two mistakes. The first, in reputed masters of ordinary abilities good enough for the present. It is true, a good \* stomach may digest every thing; but though this security is in the main blameable, it nevertheless may be somewhat tolerable, if the little these masters teach was well taught; but the misfortune is, it is quite the reverse. The second, and more common mistake, is believing, that masters of more distinguished merit, think it beneath them to descend to such small matters, whether it be they are not inclined to take the trouble, or they cannot. For my part, I would not rank him who cannot, in the catalogue of teachers; but I repute the master of the greatest talents, to be as much

\* A metaphor borrowed from food; for as those of a good stomach have no particular choice in what they eat, so those, on the contrary, who have an indifferent one seek meats pleasing to the appetite and easy of digestion. In like manner, parents, entertaining the best hopes of their children's genius, make no choice of masters for them.—There is some error perhaps here in the text.

capable, if he pleases, of teaching little as great things. First, because the man, who surpasses others in eloquence, may be supposed to have studied accurately the means for attaining it. Secondly, because the plainest method is always the best, which the most learned possess in a greater degree than others. Lastly, because it is not possible, that he who excels in great, should be ignorant in little things. If this was not true, it might as well be said, that Phidias indeed, had made an excellent statue of Jupiter, but that another would have better executed the ornamental parts ; or that an Orator knows not how to speak ; or that a very skilful physician is at a loss to remedy a slight indisposition.

What then ? Is there not an eloquence by far surpassing the weak understanding of children ? There is, I confess ; but I suppose this eloquent master to be prudent and discreet ; that he is not ignorant of the best method of teaching ; and that he can adapt himself to the capacity of the learner. Just so, should a man, who can walk very fast, chance to go part of a road with a child ; would he not give him his hand, would he not lessen his pace, and go no faster than as the child might be able to keep up with him ? Again, are not things much clearer, and more easily understood, when explained by a man of learning ? Perspicuity is the principal accomplishment of eloquence ; and the more slender a person's genius is, the more extraordinary will be his efforts to stretch and puff himself up : just so, your pigmy-men walk on tip-toe, to look big ; and none are known to be so liberal of threats as the

the feeble. I am persuaded that \* bombast, and flashy thoughts, and brilliant bubbles, and tin-  
sel-periods, and all other affected niceties of dis-  
course, denote a weakness and not a strength of  
genius. In like manner, when we see persons of  
bloated bodies, we cannot think that this corpul-  
ency proceeds from a vigorous constitution, but  
is rather the effect of gluttony and peccant humours.  
Thus also it is, that they who leave the † strait  
road, either go astray, or must go a more round  
about way; and therefore the less capable a mas-  
ter is, the more will his method of teaching and  
explaining be involved in obscurity.

I have not forgot, that in a passage of my first  
book, wherein I shewed the advantages of a public  
education to be superior to those of a private, I  
said that children incline more to the imitation of  
their companions than others, as more propor-  
tioned to their capacities. This perhaps may seem  
to contradict what I now advance. But the case

\* He censures those who, whilst they over-affect some vir-  
tue, fall into the vice that borders upon that virtue. *Cacozelia*  
in the text, signifies a vicious affectation. By *tumidos* he means  
those that strain hard at the sublime. By *corruptos*, those that  
hunt after striking and elegant thoughts. By *tinnulos*, those  
that study to make out a fine jingle of words.

† This passage is thought by most interpreters to be some-  
what obscure, and probably erroneous: for in the second ex-  
ample there ought to be some defect concealed under the ap-  
pearance of some perfection; as in the first, when bodies are  
corpulent, it apparently is a sign of strength, but proceeds  
from infirmities and debauchery: so they, who turn out of a  
strait road, may seem to seek a path-way, either for pleasure,  
or to make a short cut. They do so most commonly, because,  
*lassi sunt*, they are gone out of the right road; or because they  
are tired: *præ lassitudine*, *vel quia lassi*, as in some editions.—  
The translation has endeavoured to hit upon the most obvious  
sense of the author.

is far from being so, and for this very reason I would have a boy sent to the best master; for his scholars, as better instructed, will be more complete models for imitation, and should they be guilty of mistakes, these will be instantly rectified. On the contrary, an illiterate master may pass by a number of faults, and even perhaps approve them; and his judgment will be a standard of approbation to his whole school. Let us therefore make choice of the equally virtuous and learned, such as \* Homer's Phoenix, a man as much renowned for eloquent speech, as the gallant behaviour of a soldier.

#### C H A P. IV.

*What ought to be the first Exercises in the Rhetoric School.*

- I. *Historic narratives.* [*Fecundity laudable in Youth. — Too much severity not to be used in correcting their compositions. — They must accustom themselves to write with all possible accuracy.*] II. *Confirmation and refutation of narrations.* III. *Praise and dispraise of men.* IV. *Common places, and theses.* — *He condemns those who keep by them studied common places, to use them occasionally.* V. *Praise and dispraise of laws.*

**I** Am now going to speak of the exercises rhetoricians ought to begin with, and therefore, for a while, shall defer considering what is generally called the art of rhetoric.

A master, I think, cannot better begin than with subjects in nature like to what the boy has al-

\* L. ix. Iliad. 443.

ready learned in the grammar-school. Narrations, very proper for this purpose, are divided into three sorts, exclusive of that which is used at the bar. The first is fabulous, adopted by tragedies and other poems, without truth, or even a probability for its foundation. The second, fictitious, but true in appearance, is the same as subjects for comedy. The third is historical, and contains the relation of real facts. The two first we leave to grammarians. The last, the more solid as true, is what rhetoricians ought to begin with.

In regard to the best manner for forming a narration, we shall lay down rules for it, when we speak of the judicial kind. All that is necessary to be observed here is, that it be neither quite dry nor hungry; for to what purpose would all the trouble of study be, was it sufficient to shew things naked, and without any grace or ornament? Neither would I have it too luxuriant by circumlocution and far fetched descriptions, in the manner of poetical redundancy. Both are faults, but poverty is worse than abundance. We can neither require, nor expect a perfect discourse from a child; but I cannot help having a good opinion of the fertile wit, that attempts nobly, though it may sometimes not keep within the bounds of precision. I never also dislike superfluities in a young beginner, and therefore would have a master, like a tender nurse, indulge the young minds of his pupils in the most delicious nurture, suffering them to feed, as on the sweetest milk, on the gaiety of florid thoughts and expressions. Time will soon bring the pampered body to a due consistence, and will give great hopes of a sound constitution; whereas

whereas the child that is suddenly formed in all its limbs, portends future leanness and infirmity. Let us therefore allow them to make little attempts; let them invent, and take pleasure in their inventions, though what they do is not yet sufficiently correct and just. It is easy to remedy fruitfulness, but impossible to conquer barrenness. The boy that discloses his turn of genius by a few tokens of judgment, affords me but slender hopes of solid natural parts. I would have him enlarge upon, and spin out his subject to more than a just length. Time will introduce precision and justness into his thoughts and style; reason will polish, and frequent practice rub off something from them. There ought to be something of substance to bear clipping and filing off, and it will so happen, if the plate too thinly wrought in the beginning, does not break on the first deep impressing of the graving tool. They who have read \* Cicero, will make no wonder of what I here advance: "I would have a young man, says he, shew a fertile genius." For which reason, let a master, whose method of teaching is dry, be avoided, and particularly for children, as he may be as detrimental to them, as a parched and dry soil must be to young plants. From him they give into a dearth of conception; they grovel, and never attempt to hazard any thing above common discourse. A meagre state is health to them, and what they call judgment, is merely debility; and whilst they think it enough to be free from faults, they consider not that it is a signal fault to be desti-

\* De Orat. ii. 83,

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\* De Orat. ii. 88,

tute of beauties. I would not therefore have maturity brought on apace: new wine cannot instantly ripen while it ferments in a vat; it must be tunned up to preserve its spirit, and age will be the proof of its goodness.

It will not be amiss to hint, in how great a degree youth are discouraged by a master hard to be pleased, and rather too severe in correcting their performances. On this account, they despair, fret, and hate study, and what most hurts them, is their attempting nothing, whilst they labour under continual apprehension. The example of vine-dressers may not in this respect be unapplicable to masters. They do not prune the vine while its branches are tender, imagining it dreads the knife, and cannot yet endure the least wound. So, a master ought to make himself agreeable, and should know that remedies, harsh in their nature, require to be mitigated by something gentle. Some things he may praise, others he may make some allowance for; this he may alter, giving a reason, why he does so; and that he may mend with something of his own. It will be also sometimes of service to dictate the heads of a subject, for being enlarged upon: this will help to perfect a boy's imitation, and he will flatter himself that it is a work of his own production. But if his composition happens to be so faulty as not to admit of correction, in this case, it was customary with me to have recourse to an expedient, which I always found successful. On going over the same subject again, and having explained it in all its parts, I advised him to work it up anew, telling him it might be better done. Thus, the hope of success was a  
great

great incentive to study. Others are to be treated differently, but all according to their respective capacities. It was also customary with me to acquaint those, whose style was somewhat gay, and thought more bold than solid, that for the present it might pass, but that a time would come, when I should not permit such liberties. By this treatment, they prided themselves in their wit, and were not deceived in their judgment.

But to return from whence I have digressed ; I would have them compose their narrations with all the accuracy possible of elegant style. At first, for forming them to talk with facility, they will profit much by making them repeat what they have heard, tracing the exposition through all its parts. What I here mean, regards such only as are merely children; who, while they can do nothing else, and while they begin to annex words to ideas, may greatly by this exercise improve their memories: but, as soon as taught to make a regular and correct discourse, to suffer them to prattle extempore nonsense, to speak before they think, to blab out things indiscreetly, before they are hardly risen from their seats, is indeed a ridiculous ostentation, more befitting a Charletan than Student of rhetoric. This, however, fills ignorant parents with joy, inspires youth with a contempt for study, furnishes them with a stock of impudence, makes them contract a habit of ill-speaking, practises them in venting fooleries, and, what has often ruined a considerable progress in learning, creates in them an arrogant presumption. Every thing will have its time, and I shall not forget in the \* sequel, to

\* Book x. c. 7.

discuss this point of extempore speaking. In the mean time, it will be enough for a youth, with all the application and care he is capable of, to write something tolerable. Let this be his constant exercise, and let him make it a sort of second nature. The most likely to attain what we here seek after, or at least to come near it, is he that learns to speak with propriety and elegance, before he learns to speak with facility.

II. To narrations is not improperly subjoined the \* manner of confirming and refuting them. This is practised as well in historical records, as fabulous subjects and poetical narratives. If the question should be concerning the probability of a crow's alighting on the head of Valerius, and contending hard, whilst he continued fighting, with beak and wings to peck and lash at the face and eyes of the Gaul, his adversary; it would on both sides furnish matter of great contestation. The same may be said of the serpent, it is imagined, Scipio derived his origin from; and the she-wolf of Romulus, and Numa's Egeria. Greek history, for the most part, is as fabulous as their poetry. There are likewise several questions concerning the time and place of the transaction, and even sometimes concerning persons. Livy and other historians abound with these doubts, and rarely agree in opinion with each other.

III. From hence there may be a gradual transition to greater matters, as the praise of illustrious men, and the dispraise of the vicious, by which a youth will reap more than one advantage. For besides exercising his genius on a subject so copious

\* This is called in Greek, ἀναστρέφειν καὶ καταστρέφειν.

and so full of variety, the consideration of good and evil and their consequences, will form his morals; he will likewise acquire the knowledge of an infinity of things, and his memory will be stored with examples, which are of singular efficacy in the pleading of all kinds of causes, and of which he will make a proper use, as he finds occasion. To this may succeed the exercise of forming parallels, “as which is better, or which is worse.” These, though similar to the just mentioned subjects, contain a much more extensive matter, as treating not only of the nature of virtues and vices, but also of their degree and measure. But, as the notions of praise and dispraise, belong to the third part of rhetoric, we shall speak of them in their <sup>u</sup> place.

IV. As to common places, (I speak of those, in which, without mentioning persons, it is customary to inveigh against vice, as against an adulterer, a gamester, debauchee,) they are so inseparable from judicial causes, that we need only name the party and convert them into real accusations. We may descend also from generals to some particulars which aggravate the guilt, as “a blind adulterer, a poor man addicted to gaming, an amorous old fellow.” Sometimes too, for exercise sake, we may take the part of these vices; for in real causes, a defence is admitted in favour of luxury and love; we plead for a pimp and parasite; but in palliating the crime, we are not advocates for the criminal.

Certain theses, framed out of a comparative view of things, are very fruitful sources for the exercise of eloquence; as “Whether a country life be preferable to a city life;” “Whether the function

\* Book iii. c. 7.

of a lawyer is more honourable than that of a soldier." Such questions are of great service for either the deliberate or the judicial kinds; and Cicero has treated the latter in a very ample manner, in his oration for Murena. The following are entirely in the deliberative kind; as, "Whether it be adviseable to marry;" "Whether magistracies ought to be sought after." Connected with the parties to be advised, these become deliberations of some importance.

My masters, I remember, were wont to exercise us on a sort of subject which was equally pleasing and agreeable to us. These subjects consisted of conjectural questions, as "What reason the Lacedemonians had to represent Venus armed?" "Why Cupid is represented as a boy, with wings, and armed with arrows, and a torch?" The whole stress of the argument lay in discovering the intention of the author. Frequent debates occur on like questions in civil causes, and they may seem to be a kind of chrias.

Other common places, concerning "the credibility of witnesses, and believing on slight proofs," so evidently belong to the judicial kind, that lawyers of some note, write, and commit them carefully to memory, to have them at hand, for embellishing, as with so many \* ornaments, their extempore harangues. Herein, indeed, they seem to me conscious to themselves of very weak intellects; for how will they discover the essential

\* *Emblema* in the text, signifies something set in and applied to another thing. Cicero uses the word *emblemata* to denote certain ornaments set in gold and silver vessels, which may be taken out or put in as one pleases.

point of a cause, which has always different and new faces? How will they be able to answer the arguments of their adversaries; clear up instantly unforeseen difficulties started amidst altercations; interrogate properly a witness; and all these, and the like, if there be a necessity for so much preparation to say what is common, what takes place in most causes, and what is the usual practice of the bar? Must not these orators, by constantly instancing in the same in a diversity of pleadings, disgust their auditors, as if they had served up to them cold and laid-by meats? Or must they not be ashamed to bring so often to their remembrance the retailing of their wretched furniture; in this respect not unlike reduced gentlemen, ever priding themselves for putting their antique family remains to all sorts of uses? Add to this, that no common place can well coincide with a cause, unless it bears a natural affinity to the principal question: otherwise, it will appear not so much applicable as foisted in; either, because it differs from other parts, or is improperly introduced; not that there is an occasion for it, but because it is ready for use. I pass a like censure on those verbose digressions, which some designedly give into, to make room for a beautiful thought; whereas the thought ought naturally to flow from the cause itself: for though an expression be ever so beautiful, a remark so nice, they will tend to nothing, unless decisive of the main point, being not only superfluous, but often contrary to the affair in question. But perhaps we may have digressed too far ourselves, and therefore shall return to our subject.

V. The praise and dispraise of laws, is a kind of essay that requires a degree of eloquence equal to the greatest subjects. . .

Such were the subjects, by which most commonly the ancients exercised the talent of speaking, but adopted the logical form of argument. The Greeks were not acquainted till the time of Demetrius of Phalerea, with the manner of forming harangues in imitation of those of the bar, and public consultations. I cannot assuredly say he was the author of this sort of exercise. They, who insist he was, cannot make appear their assertion as well grounded. Cicero \* informs us that the Latins began to have masters for the art of speaking about the latter time of Lucius Crassus; and among them Plotius was reckoned the most illustrious.

## C H A P. V.

*Of the reading of Orators and Historians in the Rhetoric School.*

- I. *The Rhetorician ought to instruct his pupils in the reading of history and oratorial Speeches.* II. *His principal care must be to point out their perfections and beauties, and sometimes their faults.* III. *He should sometimes read to them faulty speeches.* IV. *He should frequently ask them questions.* V. *Such exercise will be of more service than any precepts.*

**I** Shall soon hereafter speak of the method of declaiming; in the mean time, as we yet are treating of the first elements of rhetoric, I think a mas-

\* Lib. iii. de Orat. p. 93. See the passage of Cicero concerning Plotius, quoted by Suetonius in his book of illustrious Rhetoricians, m. 2.

ter will much contribute to the improvement of his pupils, if, as grammarians explain poets, he in like manner should make them acquainted with historians, and particularly orators. This I practised when I professed teaching; but my care was confined to a few, whose age seemed to require it, and whose parents requested it as a favour. I was then, indeed, very sensible of its advantages, but could not well depart from the custom of otherwise teaching, which had been long used; besides this the greater part of my scholars, who had already made a considerable progress in their studies, did not want a help of the kind, and could follow the \* examples I set them. Even now, had I acquired any new help, I should not be ashamed to communicate it to the public. What I here recommend, I know to be observed by the Greek masters of rhetoric, though not entirely by themselves, as not having sufficient time to discharge the task; but rather more by the assistants they employ for this purpose.

It is certain, that to read an author with a boy; to teach him only to read smoothly and distinctly; or to make him likewise remark the force of expression, if any occur deserving notice, is much beneath the profession of a rhetoric-master: but to point out beauties, and faults also, if any, I take to be a duty, which he cannot be reasonably dispensed from; and so much the more, as I do not

\* They did not read in rhetoric schools historians and orators, from whence they borrowed examples for composition; but followed the examples I set them. This appears by what he says in the fifth section of this chapter: "A master declaims, that a scholar may copy after his manner; but would not the reading of Cicero and Demosthenes be of more service to them?"

demand from him the drudgery of reading with every child the particular book they fancy, this being the business of those who teach the first rudiments. But I would have him, as the easiest and most useful way of complying with this duty, make choice of an oration, and commanding silence, appoint his scholars, every one in his turn, to read a part, which will be a ready means of forming their pronunciation. Afterwards, he will explain to them the state of the cause; for so the rest will be the easier understood. Next, he will let nothing pass, either in the invention or elocution, without some remark. He will observe to them in the exordium, the art of the orator in procuring the favour of the judges; the perspicuity of the narration, its conciseness, its air of sincerity, its design and sometimes hidden artifice; for here the secret of the art is known only to connoisseurs. He then will shew the order and exactness of the division; he will observe how subtil and close the orator is in his arguments; here how strong, nervous, and sublime; there how sweet and insinuating; how art in his invectives, how nice in his railleries; lastly, how powerful he is in the passions, how he forces and masters hearts, and turns the minds of the judges as he pleases. In regard to elocution, he will let them see the choice, the elegant, the sublime expression: on what occasion the amplification is commendable, and where it is not; where lies the beauty of metaphors, which are the figures in words, and what is a smooth and periodical style, yet manly composition.

III. Neither will it be unnecessary to read also publicly for them certain orations, which are extremely

remely faulty, and are only in request on account of the corrupt taste of the times. The many improprieties of speech, and the many obscure, turgid, low, mean, wanton, and effeminate things in them should be pointed out; because, not only they are received with a sort of general approbation; but, what is worse, are esteemed because vicious. A plain and natural composition seems now to have no wit. What is far fetched and extraordinary captivates our admiration; just so, as some are known to set a greater value on misshaped bodies and monstrous figures, than such as are possessed of all natural advantages. Some won also by appearances, imagine a more exquisite beauty to be in \* artificial features, in a painted face, in false or coloured looks, than in the unartful garb and mien of innocent and pure nature, as if the beauty of the body could be enhanced by the depravation of our morals.

IV. It is not sufficient for a master to animadvert in this manner; he should likewise often ask questions, and so prove the judgment of his scholars. This will be a means to keep them from a notion of security, to fix in their memories what is said, to ripen their invention, and to clear up their conceptions. For what other is our end in teaching them, but that they may not always be taught?

V. I dare say, they will profit more by this care, than by all the precepts of arts and sciences, which undoubtedly are great helps, but considered

\* The text has *levatis* for *levigatis*, for *leve* with the first syllable long, signifies something smooth and without hairs. The men, in Quintilian's time, that affected a handsome face, plucked out the hairs on their cheeks; whence they were called *vulsi*.

in their extent, imply an impossibility of examining into all the distinct species of things, which daily present themselves to our consideration. There are general precepts on the art of war, but it would avail more to know, how a general behaved in such a situation and time, and what contributed to his success, and what not. For in all cases, experience most commonly effects more than theory. A master declaims, that his scholars may copy after his manner; but would not the reading of Cicero and Demosthenes be of more service to them? He corrects publicly the faults his scholars make in their declamations, but would it not be much better to criticize the just-mentioned modern pieces of eloquence, which must not only make a greater impression, but also be more pleasing to them; for self-love would rather have the faults of others corrected than its own? I have yet many things to say on this head, but all know the utility of the counsel I give, and I heartily wish that the sense of the benefit may prompt to its being put in execution!

## C H A P. VI.

*What authors are first and principally to be read.*

- I. *The best authors are to be first and always read.*
- II. *Care must be taken, that youth shew not too great an affection either for the more ancient, or for the modern.*

I. **T**H E R E remains to discuss what authors are first to be read. Some approve of authors of less note, because the understanding of them is  
more

more easy; others of the more florid, as more capable of feeding with delicious nourishment the genius of children. For my part, I think that the best ought to be read first, and always; especially, the plainest and most natural; and therefore I recommend Livy preferably to Sallust. Livy has taken in a greater scope of history, but to understand him one must have made some progress. Cicero appears to me pleasing to beginners, and is sufficiently plain. He may be read not only with profit, but even a fondness may be contracted for reading him; yet this must be by those, as \* Livy says, who have copied his character.

II. There are two sorts of authors I would have youth cautioned against. The first, are those that favour too much of antiquity, as the Gracchi, Cato, and such as lived about the same time. An over-fond admirer of their productions ought not to put them into the hands of youth, lest they contract a stiffness by the reading of them, and withal a harsh, dry, and barbarous style: for incapable of attaining the strength of their noble sentiment, they will rest satisfied with their elocution, which then was undoubtedly of the best, but is not so now; and the worst is, that by imitating what was defective in these great men, they will be so fool-hardy as to fancy they resemble them.

The second, are the moderns, who slide into the opposite extreme. Youth must beware of being enamoured of the profusion of ornaments crowded into their writings; and the bait is the more dangerous, as this luscious manner is nearly allied to

\* In his epistle to his son, mentioned in the tenth book, chapter first, which, it were to be wished, was extant.

conceits of puerile fancy. But when the judgment is sufficiently formed, and without running any risque, is capable of abiding by the good and the true in writing, then both the ancients and moderns may be indiscriminately read. The force and solidity of the former, purged of the dregs of a grosser age, will add new lustre to the elegance of our style; and the latter will appear to have qualities, not to be rejected. We are not more dull by nature than the ancients; but we have perverted the taste of good writing and refined it to a fault. Our wit is as sprightly as theirs, but it wants to be animated by the grandeur of the same designs. We must therefore endeavour to make a proper choice, and discern between good and bad, which lie often intermixed. I not only grant, but even contend, that there lately have been, and are still living, some \* moderns, worthy of imitation in all respects. But to make known who they are is not every one's business. The imitation, however, of the ancients is safer, should we even go astray with them. I therefore thought it advisable to postpone the reading of the moderns, that their imitation might have no ascendant over us, till we are able to form a competent judgment of their merit.

\* He means Pliny, Tacitus, and some others of his contemporaries.

## C H A P. VII.

*On what subjects a master of rhetoric ought to exercise his scholars style and composition.*

MASTERS disagree in the manner of prescribing subjects for composition. Some, not satisfied with dividing them into all their parts, enlarge on every point, assigning proofs, figures, and passions to their respective places. Others draw only the out-lines, but when their pupils have performed their declamations, they fill up what had been omitted by each of them, and improve some parts with as great care, as if they were to pronounce them themselves.

Both these methods are good, and I separate not the one from the other; but if a choice was to be made, I should rather put children immediately on the strait road, than wait to recall them when once gone astray. First, because correcting their faults affects only their ears, whereas an exact division directs both their thought and style. Secondly, because a master is heard with less reluctance, when he instructs than when he finds fault, and now especially, when youth, from their morals being so little attended to, shew a petulancy of disposition, prone to resentment, or tacitly indignant of reproof. Still their faults are not less to be publicly corrected, that it may not be imagined by the other scholars, that what the master left unnoticed, was right. But both methods might be equally and occasionally used. Beginners ought to

have subjects adapted to their abilities, and having sufficiently conformed themselves to the prescribed rules, they may be shewn, as it were, a short cut, and suffered to follow the bent of their own genius, lest the habit of doing nothing without the help of another, make them incapable of attempting any thing of themselves. When they have executed any thing tolerable, the master's care will be almost at an end; but if they still commit mistakes, it will be his business to redress them. We perceive a like conduct in birds, which, while their young are yet but weak and tender, bring them food, and distribute regularly to all their portion; but when they seem fledged, and to have gathered strength, the mother teaches them to get for a short time out of their nest, and to fly about their own place, setting an example of flying before them herself; and when thus she has made sufficient trial of what they are able to do, she suffers them to take wing where they please, and act as they list.

## C H A P. VIII.

*Boys ought to be made to commit to memory select passages from historians and orators; but seldom what they have written themselves.*

**I** Think the custom ought to be entirely changed, of making boys get by heart their own compositions, and declaiming them at stated times. This is greatly owing to parents, who measure their children's studies by their frequent declamations, whereas their greatest progress consists chiefly in diligence. But, as I would have children learn to

compose, and to be more conversant with this exercise than any other; so also, preferably to their own compositions, I would have them get by heart select passages from orators, historians, and other authors, deserving of this care. When for some time they have accustomed themselves to this seemingly foreign to them, and laborious kind of exercise, they will the easier fix in their minds their own compositions; they will familiarize themselves to the best things; by them they will have a fund in themselves for imitation; and even without thinking of it, will express the form of that piece of eloquence, they had treasured up in their minds. Words, manner, turns, figures, all will spontaneously flow in, and present themselves from this treasure. The remembrance of witty sayings and ingenious thoughts will also be as much an additional charm in conversation, as useful at the bar; for a well-timed application, not having the air of study, does us more honour than if it was our own production.

Youth, however, may sometimes be permitted to declaim their own compositions, that they may not be frustrated in the praise they seek after, and which they repute the chief reward of their labours. But this indulgence should not take place but when they have accomplished something accurate. Then it is they may reasonably expect it as due to their study, and pride themselves for having deserved it.

## C H A P. IX.

*Whether every one is to be taught according to his genius.*

IT is reckoned a talent of no small merit in a master, to be able to discern the difference of his pupils genius, and to know what in each is the bent of nature. The variety in this respect, disclosing itself to view, is wonderful. We discover almost as many forms of minds, as of bodies; and without passing out of our subject, we may have an instance of it in orators, who though they have formed themselves in imitation of those they approved of, yet so far differ in the manner of eloquence, that not one is like another. Hence it is, that several seemed to act with reason, by cultivating the good natural parts of children, and assisting them in the things, for which they seemed to be born. A man well versed in the requisites for being a proficient in the exercises of the academy, in order to train up the youth committed to his charge, makes trial of their strength, their agility, and their inclination for one exercise more than another. The same way, a master of eloquence, sagacious at passing in review the turn of genius in every one of his scholars, one being just and correct, another rather bold; one serious, another ludicrous; one smooth, another rough; one florid and brilliant, another polite and delicate; ought so to adapt himself to each, as to endeavour to perfect him in what his talent chiefly lies; because nature, seconded by care, waxes stronger and stronger; and the person that is put  
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out

out of his bias, cannot help performing but indifferently, as by deserting, as it were, his instinct, he must of consequence be weaker in his efforts.

For my part, being always for following the dictates of reason, even contrary to received opinions, I must confess that I am not indircly of this sentiment. It is true, a discernment of the peculiarities of genius is necessary, and a certain choice ought to be made of suitable studies. One will be disposed for history, another for poetry, another for the law, and some perhaps will be so stupid, as to be fit for nothing but the plough. It is the business of a master of eloquence to pry into, and draw a line of separation between these different characters of wits; just as the conductor of the exercise-school, designs one for the course, another for wrestling, another for fifty-cuffs, and another for some other contention, like any of those practised in the solemn \* games of Greece. The case is different in regard to him, who is destined for the bar. It is not enough for him to be expert in a part of his art. Notwithstanding any intervening difficulties, he must strenuously endeavour to attain the whole of it. For if nature were sufficient, there would be no necessity for learning.

Should a genius be depraved by the affectation of refinement, or pompous thoughts and expressions, as it happens to a good many; must it be suffered to indulge these fancies? Must not food and raiment be given to the hungry and naked?

\* There were four of these solemn games of Greece, viz. the Nemean, Olympian, Isthmian, and Pythian, in which were various antagonists for entering the lists in each of the contentions.

If superfluities are to be retrenched, why should it not be allowable to supply deficiencies? I do not run counter to nature; I would not have native excellencies neglected, but rather improved and augmented. When that great master Isocrates, whose books are a proof of his eloquence, whose disciples are evidences of his good teaching, passed this judgment upon Ephorus and Theopompus, that the one wanted a bridle, the other a spur; did he therefore pretend that a master was to promote the slowness of the one, and the impetuosity of the other? He rather thought that their nature wanted mingling together.

Weak wits, however, should be so managed, as to be made only to second the call of nature. So it is, they will succeed better, if wholly employed about the little they are capable of. But those blessed by nature with a fruitful genius, and of whom we may rationally entertain the best hopes for becoming Orators, must not neglect any accomplishment of eloquence. For though they may be naturally inclined to one manner more than another, there can be no impediment to their embracing all, as application will make their acquired qualities equal to their natural. It is so, to make use again of our former example, that a skilful teacher of exercises acts in regard to \* one he designs

\* *Pancratiastes* in the text, is said to be a person, like our English adepts in the science of boxing, who, with all the might of his body, kicks, cuffs, crosses-buttocks, and folds himself about his adversary. This sort of exercise was called *pancratium*, and is one of the five combats of which the *Pástrakhon* of the Greeks consisted. These were wrestling, fighting with the cestus or boxing, running including charioteering, jumping,

signs to train up and perfect in all the branches of his art. He does not merely teach him to kick, or cuff, or trip, or catch hold, or fold himself in a certain way about his adversary ; but he instructs him in all the dexterity of feints and flights that may be used in every one of these glorious strifes. Should a youth seem not disposed for performing some of these exercises, the master will apply him to that he is most capable of ; for two inconveniencies must be avoided, the first, not to attempt what is impracticable ; the second, not to set aside a thing that may be very well done, for another that cannot be so well done. But let the exercise-master complete such as was Nicostratus, that famous invincible old champion, whom, when I was a young man, I saw honoured with a crown, for having gained on the same day the prizes of the cestus and wrestling.

And now, how much greater ought the care of the future Orator's master to be, who should form him to every manner of eloquence, it being not enough for him to possess a single perfection, as of being only concise, subtil, or smart. A \* musician is not esteemed good, if he only touches and stops well the base, or menor, or tenor, or treble. To be good, he must be perfect in every article ; for it is the same with a piece of eloquence, as with a lyre, which will admit of no accurate execution, unless the just agreement of its different

ing, and throwing the quoit. Some will have the *pancratium* to be the same with the *pentathlon*, that is, these who could go through every one of the five ancient combats of Greece, and this seems to be the right sense of this passage.

\* *Phoneticus* in the text, is properly a matter of pronounciation, or modeller of the voice.

sounds united together, forms that harmony which ravishes and transports us.

## C H A P. X.

### *Of the Duty of Scholars.*

**H**AVING enlarged upon the duties of masters, before I proceed farther, I have one advice to recommend unto scholars, and this is, to love their masters not less than the sciences they learn from them, and to consider them as parents, from whom they receive not the life of the body, but the life of the soul. In such a disposition of mind, they will be attentive to them with more willingness, will believe what they say, will desire to be like them, and will come to school with more pleasure and alacrity. When admonished, they will not take it ill; when praised, they will be glad; and to be highly endeared, they will deserve it by application and diligence. It is the master's duty to teach, and it is theirs to make themselves tractable. One can effect nothing without the other. For, as the origin of the human body proceeds equally from the father and the mother; and, as there is no sowing a piece of ground, unless properly prepared, so eloquence cannot coalesce without the mutual concurrence of the teacher and learner.

## C H A P. XI.

*That declamations ought to resemble as nearly as possible the pleadings of the bar.*

**W**HEN a youth is sufficiently conversant with his first essays, which are not inconsiderable in themselves, but are, as it were, the limbs

limbs and parts of greater matters; he may apply himself to subjects in the deliberative and judicial kinds. But before I enter on this discussion, I shall animadvert a little on the manner of declamation, an exercise of late invention, but extremely useful, when properly conducted. Besides comprehending the greater part of the things already mentioned, it bears the nearest resemblance to truth; and for this reason, is so much prized, that many think it alone sufficient for forming an Orator, as there is scarce a requisite in a set speech, but may be found in this kind of composition. It has, however, much swerved from its primitive institution; the ignorance and licentiousness of declaimers being justly held to be one of the principal causes of the corruption of eloquence. But what in its nature is good, has this peculiar to it, that it may be converted to a good use. Let therefore the subjects that are imagined retain the resemblance of real ones, and let declamation, as nearly as possible, imitate those acts, for the exercise of which it was imagined; for subjects of declamation, built upon magic incantations, the causes of pestilence, the answers of oracles, the cruel devices of stepmothers so often agitated in tragic scenes, and a variety of still more fabulous descriptions, have no manner of relation to the \* forms and practice of the bar.

What if they have not? Shall therefore young persons be never permitted to treat these marvel-

\* *Sponsiones et interdicta.* By *Sponsi.* is meant a covenant, or rather a wager at law. When both parties by consent laid down a sum of money to engage their standing to trial, the issue whereof was. that he who was cast in the suit, lost also his money. *Interdictum* signifies an arrest.

lous, and I may truly say, poetical subjects? Must they never indulge their imagination in the extraordinary evagations of fiction, and give them, as it were, a body by the force of eloquence? It would be more advisable if they never did. Let them hold to what is grand and noble, and not to fustian, extravagance, and ridicule. But if allowances are to be made our declaimers, let them endeavour to pamper themselves, provided they know, that as beasts are put to grass for a time, and afterwards let blood, before they return to a food of greater consistence, and more proper for preserving their health and strength: so they, if willing to be wholesome and vigorous, must diminish their corpulency, and evacuate all gross and corrupt humours; otherwise the inanity of the inflation will be discovered at the first attempt of any work having truth for its foundation.

They who fancy the whole business of declamation to be intirely different from the pleadings of the bar, are not acquainted with the end and reason of its invention. If it be not a preparative to the bar, it will at best be but an empty shew, a mad vociferation more becoming a stage-player than an Orator. What will it avail to gain over a judge where no judge exists? To what purpose is a narration made, known by every one to be false? Where is the necessity of alledging proofs for a cause on which none are to pass sentence? All this is somewhat tolerable; but to be touched; to excite anger and indignation, sorrow and compassion in the minds of the auditory, must be an extreme piece of mockery, unless this image of war is as a prelude to real contention.

Must

Must there be no difference therefore, between the pleadings of the bar, and declamatory speeches? There should not, if our motive be improvement. I wish it was customary to descend to particulars; to name persons; to imagine controversies of a more complicated nature, and requiring some length of time in the discussion; to be not afraid of using popular terms, or such as obtain at the bar; to season the whole with ingenious raillery; in all which we are perfect novices when we appear at the bar, notwithstanding the multiplicity of our school-exercises.

Declamations calculated for ostentation, may give something to the pleasure of the ear; for in pleadings, grounded undoubtedly on some truth, but whose aim is to amuse agreeably, as panegyrics, and all speeches in the demonstrative kind, there is full allowance for more flowers and graces than in judicial proceedings, in which usually the art is more hidden, but in them displays all its colouring and beauty, to fill the expectation of an auditory, who come designedly to hear a fine discourse. Wherefore, so far as declamation is the image of judicial and deliberative causes, it ought to have a verisimilitude; and so far as it is a work of \* ostentation, a due share of pomp and lustre. This is what comedians do. They do not intirely speak in the manner of common conversation, which would be artless; yet do not depart much from nature, which if they did, imitation would be destroyed; but they heighten the simplicity of ordinary discourse, by a becoming theatrical air and manner. . .

\* *επίδειξις*.

## C H A P. XII.

*Those are refuted, who think that Eloquence requires no Precepts.*

WE now must enter upon that part of rhetoric, by which they, who have omitted the foregoing particulars, usually begin. But I seem to myself to see some stopping me at the very entrance, and urging with some warmth, that eloquence is in no need of so many precepts; that to attain it, it is fully sufficient to have good natural parts, assisted by the common learning of schools, and a little practice at the bar; and that all our care, in the main rather a just subject for ridicule, must of consequence fall short of its aim. Some professors of great note may perhaps be instanced in as favouring this way of thinking. One of these being asked what a figure and trope meant? answered, that he could not exactly tell, but that examples of them might be found in his declamations. Another being asked, whether he was a disciple of \* Theodorus or Apollodorus? "If you mean me, says he, I am a prize-fighter." He could not, indeed, more genteelly wave the confession of his ignorance. But it may be said of those who are indebted for their success to happy

\* Theodorus and Apollodorus were excellent professors of rhetoric, (of whom mention is made in the 3d Book, c. 1.) From them their disciples were called Theodorians and Apollodorians. The rhetorician by a joke evaded a direct answer, calling himself one of those gladiators that went by the name of *Parmularii*, as defending themselves by a shield, *parmula*. This sort was also styled *Tōrax*.

natural parts, that they have few like them in genius, but many in their neglect of science.

These are such as boast of speaking by the impulse of a native force and impetuosity. Where is the necessity, in their opinion, for proofs or regularity in a fictitious harangue? Nothing more is wanting than a pompous thought and expression, and the boldly, if not rashly, hazarded, are the best. This is what they seek after; this fills their auditories; and full of these notions, you see them big with thought, at a loss how best to proceed; sometimes gazing at the ceiling, sometimes waiting whole days together, till their brain is in humour to give birth to something grand; and sometimes, roused by a confused murmur, as by a flourish of trumpets for engaging, changing several times their position, fluttering with a variety of motions, and all this, not for uttering words in proper order, but for seeking them.

Others, before they have agreed with themselves, on what they are to say, make out certain beginnings, to which they intend to tack something brilliant. Having raved upon them for a considerable time, perceiving the difficulty of connection, they at length despair of success, and so pass to a diversity of other things, all which relate equally as little to the matter in question.

They, who seem to be more rational in their way, exhaust their labour more upon common places, than the stress of the cause itself. Hence, the thread of discourse often broke, darts along in abrupt sentences, destructive of all uniformity, and making these motley pieces like unto children's collections, in which they have jumbled together  
whatever

whatever they have heard praised in the composition of others. They pride themselves that they sometimes hit upon beautiful thoughts and good things; but do not the most stupid, and even our slaves sometimes do the same? If this was enough I should easily grant, that the art of oratory is no way necessary.

### C H A P. XIII.

*Why those, who have studied less, seem more ingenious than others.*

**T**O believe that the illiterate, or those who have studied less, speak with greater energy than others, is a consequence of the abuse I just now hinted, and proceeds chiefly from the corrupt judgment of some, who imagine that artless things affect in a more lively manner. Opening, loosing, and leading, is nothing with them comparatively to breaking, forcing, and dragging. A gladiator, though never taught to fence, is reckoned brave for rushing on his adversary; and a wrestler potent, who by main strength holds fast what he has seized with his gripe. But the first is often ruined by his forcible attack, and the other surprised to see all his impetuosity disarmed by a slight\* trip from his antagonist.

But in this respect there are certain appearances, which naturally lead the ignorant into deceptions: For division, which is of vast advantage in causes, seems to weaken the discourse; and all uncouth

\* Quintilian elegantly calls *mollem articulum* a slight inflection of body, by which the skilled in fencing elude their adversaries blow. For the limbs receive a bent from the joints.

and

and ill-connected things seem more magnificent, and in greater number, than when polished and placed in order.

There is also a certain affinity between virtues and vices, which frequently occasions the name of freedom to be given to slander, of strength to rashness, of liberality to profusion. An ignorant barrister, regardless of his own, and client's danger, is more open in his aspersions, and has oftner recourse to them than others; and this may bring him into a sort of repute, as people very willingly listen to the scandal they would not chuse to propagate themselves.

But there is another danger, and much to the detriment of elocution, from this ignorant speaker's being less cautious of what he says, and from his wretchedly straining to magnify things by puffing. One always on the scent of the extraordinary, may sometimes happen to light on something grand; but this is a rare case, and cannot compensate for a multiplicity of other faults.

The illiterate may seem too to be more copious, because they say every thing that occurs to them; whereas the learned restrict themselves by choice and precision.

Add to this that they often lose sight of the main point, and take little pains to prove what they advance. They therefore decline the discussion of such questions and arguments, as must seem cold and nugatory to corrupt judges, their whole aim being to amuse the ears of the assistants with the false delicacies of their falser eloquence.

It is likewise observable, that their ingenious thoughts, the only thing they hunt after, are so  
much

much the more visible, as every thing about them is flat and abject; as "lights are not so resplendent amidst shades, as Cicero says, as in thick darkness." Call them, if you will, ingenious; I am sure the truly eloquent must be affronted at the title.

Still it must be confessed that art, or learning takes something away. A file takes roughness from iron, a whetstone sharpens blunt tools, and age purges wine of its impurities. In all these cases something is worn away, but it is what was faulty in them; and what study and knowledge have polished, was only diminished, to become better and more perfect.

Another source of fame to the illiterate, and perhaps their greatest, is their earnest and vehement manner of delivery. For they roar from the beginning to the end of their speech, and bellow out (so they express it themselves) every thing with high-lifted and expanded arms. The state of real madness appears expressed in their running to and fro, in their panting, in their tossing themselves backwards and forwards, in their gesticulation, and in the shaking of their head. Now they clap hands, stamp on the ground, smite their thigh, breast, and forehead. This is the sort of action that ravishes the \* meaner sort, and rakes together such multitudes of people. The behaviour of the learned orator is quite the reverse of all this. As he knows how to keep his discourse

\* *Pu'latum circulum*, so a croud of the common people was called, as wearing black cloaths; for the Roman common people were all clad in a garb of this colour, as appears from Suetonius, in his Life of Augustus.

within bounds, to diversify it, to observe exact order in it; so in his manner of pronunciation he adjusts his action to the nature of the things he discusses; and if he aims at any thing deserving of constant observance, it is to be, and to appear modest.

But they call that force, which is rather violence; and what should appear more astonishing, is, that you meet, not only with some pleaders of causes, but (what argues a baser behaviour) with some masters of eloquence, who, because they have been a little practised in the talent of speaking, break through the rules of common sense and decency, and led away by an insulting capricious humour, treat those who have done the greatest honour to letters, with the character of trifling, jejune, timorous, and weak orators, or with any other opprobrious appellation that occurs to them.

But we indeed felicitate them on their eloquence, acquired by so little expence, without learning, without trouble, without study. For our part, we shall comfort the hours of our retreat, with the amusement of writing and compiling whatever may hereafter be a benefit to well disposed youth, and a pleasure to ourselves. How better can we employ our time, since we resigned the care of teaching and our pleadings at the bar, which we judged proper to lay aside, when the approbation of the public \* authorized us to it.

\* Quintilian here seems to hint to us the behaviour of Domitius Afer, who, by continuing his pleadings to extreme old age, at length became ridiculous. It was customary with him to say, "He had rather die than leave off." Book xii. c. 11.

## C H A P. XIV.

*What moderation ought to be kept in the observance of precepts.*

I. *That the Orator is not to follow the precepts of rhetoric as immutable laws.* II. *That he ought to look to what is becoming and suitable.*

I. **L**ET none imagine that the precepts laid down and inculcated by most writers on arts, are here imposed by me on students of rhetoric, as laws of immutable necessity; such are, first, the exordium and its conditions; secondly, the narration, and the rules it is conducted by; thirdly, the proposition, or, as some will have it, the digression; lastly, a certain order of questions, proofs, and other materials, which some scrupulously observe, as if not allowed to do otherwise. Rhetoric certainly would be a thing very easy, if it could be comprised in so small a number of rules; but these rules admit of great alterations, according to the nature of causes, times, circumstances, and necessity: so that the principal requisite in an Orator, is judgment, whereby he determines himself pursuant to occurrences.

To inform a general, as often as he puts his army in order of battle, first to range properly his van, next to display his wings on each side, and then to place his cavalry on the right, and on the left; would be the best and most natural position, when it could be used. But if a mountain, river, hills, woods, defiles, obstruct this order, there is

a ne-

a necessity for altering it. The manner of the enemy's fighting, and circumstances of the impending danger, will change it. One time, the line of battle must present a full front; another time, the form of a wedge; here, the corps de reserve should be drawn up; there the legion; and sometimes it will not be amiss to make a feint of retreating. In like manner, to know whether the exordium be necessary or superfluous; whether it ought to be long or short; whether the speech ought to be entirely addressed to the judges, or sometimes to others by some \* figure; whether the narration ought to be concise, or diffusive; divided, or continued; direct, or transposed; all these particulars depend on the nature of the cause, and by it they must be decided. The same may be said of the order of questions, which, very often in the same controversy, the contending parties, as they perceive their advantage, begin differently with. Hence, we may conclude, that most precepts ought to be regarded, as founded only on utility, and not made binding by any positive † law. I will not deny but that it is better in general, to observe them; else I should not here have taken the trouble of recommending them: but, if the same utility advises us to the contrary, we must follow it, and relinquish the authority of all masters.

II. There is a thing I earnestly advise, and shall never cease inculcating it. This is a constant at-

\* By an apostrophe.

† *Regatio* is any law, and so called, because votes were asked to make it pass into a law, *quia regabantur suffragia*. *Plébiscitum* was a resolution of the commons, and had the force of a law. *Sancta*, i. e. *Sancta*, were decrees.

tention in the orator, to what is becoming and expedient in every cause. It is often for the good of the cause to change some things in the appointed and established order, and the same also suits the cause. In statues, and pieces of painting, we see a variety diffused through the drapery, the visage, the attitudes. A figure, in an upright position, has few or no charms. The head strait on the shoulders, the arms hanging, the feet closed together, is all a stiff piece of work. Give it a bending, and, as I may say, motion; you will see it life and soul. It is therefore on this account that the position of the hands and face, is diversified a thousand different ways. Some figures seem to dart forward and run; others are in a sitting, or leaning posture; some are represented naked, some veiled, and others partly naked, partly covered. What so distorted, and yet so finished, and nicely wrought, as Myro's \* quoit-player? Should one find fault with this posture, as not natural, would he not betray his ignorance, because it is the novelty and difficulty of framing such an attitude of body, that makes it so much admired and valued? Of like charms and beauty are rhetorical figures, employed either in thoughts or words. They always present a sort of deviation from that which is direct; and the idea of perfection they strike the mind with, is the result of their departing from the beaten road of vulgar expression.

In painting, the whole face appears; but Apelles found out the secret of exhibiting the portrait

\* *Discobolos*, is a man throwing a quoit, in the statue of whom, Myro wonderfully expressed his forcible and mighty straining to throw it.

of Antigonus on one \* side only, to hide the deformity of his lost eye. Now, in a discourse, how many things require to be concealed; whether they ought not to be shewn; whether they cannot be expressed with sufficient propriety and dignity: such, I fancy, was the device of the Cithnean Timanthes in that celebrated painting, by which he excelled Colos the Teian. For in the sacrifice of Iphigenia, having represented Calchas in grief, Ulysses in a greater degree of grief, and Menelaus in the greatest affliction of spirit his art could be expressive of; and having thus exhausted the whole passion, and not knowing, in suitable colours, how to paint the father's anguish, he veiled his head, leaving the spectators to judge of what passed in the bottom of his heart. Sallust † has recourse to a like precaution, where he observes: "As to Carthage, I think it better to be silent, than to say little."

For these reasons, it was always my way never to bind myself down to general rules, scarce one being found but might in some respect be invalidated or made void, as we shall shew more amply elsewhere. In the mean time I would not have our youth imagine themselves thorough proficientes for having studied our common abridgments of rhetoric; nor too secure of their knowledge for being acquainted with some systems of universal ‡ precepts. The art of speaking requires great la-

\* This is what artists call painting in profile.

† *In Jugurte.*

‡ He calls those *technicos*, who had treated of the precepts of arts, and had prescribed universal rules, which they scrupulously adhered to.

bour, constant study, long experience, much practice, consummate prudence, a signal presence of mind, and acute judgment. However, these rules may be as so many helps, if they leave us at liberty for excursions, and not force us to tread in one and the same path; for to pretend, under such a restriction, to take them for guides, would be to advance as slow, as they who attempt walking on ropes. We shall therefore proceed, as we see necessary, by different routes; often quitting the\* high road, to take a more compendious one; going round about, if torrents have swept away bridges; and passing out through a window, if a fire has reached the door. What we have undertaken, is a work of vast extent, infinite variety, and, indeed, inexhaustible, as something new may every day occur. I shall, however, endeavour to set down whatever has been delivered on the matter, yet make choice of the best precepts, changing, adding, and retrenching, as it may seem proper.

## C H A P. XV.

*Division of the whole work.*

... **R**HETORIC will be well divided in my opinion, by treating, first of the art; secondly, of the artist; and thirdly, of the work.

\* *Stratum militari labore iter.* The Romans employed their soldiery, when they had no other occasion for their service, in making and often paving their high roads. This they did to prevent the vices of idle life in them, and to inure them to labour. The remains of their high roads, and other monuments of singular note, all performed by their military, are to this day the admiration of the curious.

The art, is that which ought to be learned, and this is the science of speaking well. The artist, is he who practises the art, that is, the Orator, whose end is to speak well. The work, is that which is performed by the artist, and this is a good discourse. These three are again subdivided into other distinct particulars; which, as they will have their place in the sequel, we shall now begin with the first part.

## C H A P. XVI.

*After refuting the opinions of others, he teaches that Rhetoric is the science of speaking well; and that its End is to speak well.*

FIRST, let us examine what rhetoric is, of which there are diverse definitions. Considered in itself, it is reducible to two questions, the first, regarding the quality of the thing, whether good or bad; the second, the import of the words, by which it is defined. The principal difference of opinions in this respect is, that some think bad men may be called Orators; whereas others, whose sentiment we choose to follow, will have this name, and the art we speak of, attributed intirely to the good.

They, who separate eloquence from the greatest and most desirable merit in life . . . make the duty of an Orator to consist in persuading, or in speaking pertinently to persuade, which a bad man may equally effect. Rhetoric has therefore been commonly defined, 'The power of persuading.' . . . This opinion originated from Isocrates, if the work ascribed to him be really his: not that he intend-

ed to dishonour his profession, though he gives us a dangerous idea of rhetoric, by calling it the \* workmanship of persuasion. . . We find almost the same thing in the Gorgias of Plato, but this is the opinion of that rhetorician, and not of Plato. Cicero has written † in many places, that the duty of an orator is to speak in “a manner proper to persuade;” and in his ‡ books of rhetoric, which undoubtedly he does not approve of himself, he makes the end of eloquence to consist in persuasion.

But does not money likewise persuade? Is not credit, the authority of the speaker, the dignity of a respectable person, attended with the same effect? Even, without speaking a word, the remembrance of past services, the appearance of distress, a beautiful aspect, make deep impressions on minds, and are decisive in their favour. Did || Antonius, pleading the cause of M. Aquilius, trust to the force of his reasons, when he abruptly tore open his garment, and exposed to view the honourable wounds he received, fighting for his country? This act of his § forced streams of tears from the eyes of the Roman people, who, not able to resist so moving a spectacle, acquitted the criminal. Sergius Galba escaped the severity of the laws, by appearing in court with his own little children, and the son of Gallus Sulpitius in his arms: the sight of so many wretched objects melted the judges into compassion. This we find equally attested by some of our historians, and by

\* *παιδείας διημερεύον.*

† De Invent. i. 6.

§ Ver. vii. 31, and 32.

† De Orat. i. 260.

|| De Orat. ii. 195.

a speech of Cato. What shall I say of the example of Phryne, whose beauty was of more service in her cause than all the eloquence of Hyperides; for though his pleading was admirable in her defence; yet perceiving it without effect, by suddenly laying open her tunic, he disclosed the naked beauties of her bosom, and made the judges sensible she had as many charms for them as others. Now, if all these instances persuade, of consequence persuasion cannot be the end of rhetoric.

Some therefore have seemed to themselves rather more exact, who, in the main, of the same way of thinking, define rhetoric to be the "power of persuading by speaking." It is to this, Gorgias, in the book above cited, is at last reduced by Socrates. Theodectes does not much differ from them, if the work ascribed to him be his, or Aristotle's, as is supposed. In this book, the end of rhetoric is supposed to be "the leading of men wherever one pleases by the faculty of speaking." But this definition is not sufficiently comprehensive. Many others, besides the Orator, persuade by their words, and induce minds to what they please. This harlots do, and flatterers, and debauchers. On the contrary, an Orator does not always persuade; sometimes it is not properly his end, and sometimes this end is common to him with other quite different persons. . .

Some therefore, setting aside the consideration of the end, as \* Aristotle, have defined rhetoric to be "The power of inventing whatever is persuasive in a discourse." This definition is equally

\* Lib. i. Rhet.

faulty with the just mentioned; and is likewise defective in another respect, as including only invention, which separate from elocution, cannot constitute a speech. . .

It appears from Plato's *Gorgias*, that he was far from reputing rhetoric to be an art of ill tendency; but that rather it is, or ought to be, if we were to conceive an adequate idea of it, inseparable from virtue. This he explains more clearly in his *Phædrus*, where he says, that "the art can never be perfect without an exact knowledge, and strict observance of justice." I join him in opinion; and if these were not his real sentiments, would he have written an apology for Socrates, and the eulogium of those brave citizens, who lost their lives in the defence of their country? This is certainly acting the part of an orator; and if in any respect he attacks the profession, it is on their account who make an ill use of eloquence. Socrates, animated with the same spirit, thought it unworthy of him to pronounce the speech *Lysias* had composed for his defence; it having been the custom of the orators of these times to write speeches for arraigned criminals, which themselves pronounced in their defence; and it was so, the law that prohibited pleading for another was eluded. Plato likewise, in his *Phædrus*, condemns the masters that separated rhetoric from justice, and preferred probabilities to truth. . .

Such are the definitions of rhetoric, which have been principally agitated; for to go through with all of them, is neither my design, nor do I think it possible, as most writers on arts have shewn a perverse itch for defining nothing the same way,

or

or in the terms of others that wrote before them. I am far from being influenced by a like spirit of ambition, and far from flattering myself with the glory of invention, shall rest contented with that which seems most rational; as that rhetoric is properly defined "The science of speaking well." Having found what is best, to seek after something else, turns to no good account. Allowing therefore this definition, it will be no difficult matter to ascertain its end; for if it be "the science of speaking well," consequently, "to speak well," will be the end it proposes to itself.

## C H A P. XVII.

*Whether Rhetoric be useful.*

- I. *He refutes whatever has been said against Eloquence.* II. *He makes a fine Eulogium of Eloquence.*

I. **T**HE next question is on the utility of rhetoric; and in this point of view, some vent the bitterest invectives against it, and what is very unbecoming, exert the force of eloquence against eloquence; saying, that by it the wicked are rescued from punishment, and the innocent oppressed by its artifices; that it perverts good counsel, and enforces bad; that it foment troubles and seditions in states; that it arms nations against each other, and makes them irreconcilable enemies; and that its power is never more manifested, than when error and lies triumph over truth.

Comic \* poets reproach Socrates with teaching how to make a bad cause good; and Plato repre-

\* Aristoph. in Nub.

sents Lyfias and Gorgias boasting the fame thing. To thefe are added feveral examples of Greeks and Romans, and a long enumeration made of orators, whofe eloquence was not only the ruin of private perfons, but even deftructive to whole cities and republics; and for this reafon it was, that eloquence was banifhed Sparta, and fo reſtricted at Athens, that the orator was not at liberty to move the paſſions.

By granting all this as found argument, we muſt be obliged to draw this neceſſary inference, that neither generals of armies, nor magiſtrates, nor medicine, nor philoſophy, will be of any uſe. Flaminius, an imprudent general, loſt one of our armies. The Gracchi, Saturninus, and Glaucia, to raiſe themſelves to dignities, put Rome in an uproar. Phyſicians often adminiſter poifons; and among philoſophers, ſome have been found guilty of the moſt enormous crimes. Let us not eat of the meats our tables are ſpread with, they have frequently cauſed diſeaſes. Let us never go into houſes; they may fall and crush us to death. Let not our foldiers be armed with ſwords; a robber may uſe the ſame weapon againſt us. In ſhort, who is ignorant, but that the moſt neceſſary things in life, as air, fire, water, nay even the celeftial bodies, are ſometimes very prejudicial to our well-being?

II. \* But how many examples can be alledged in our favour? Did not Appius, the Blind, by the force of his eloquence, diſſuade the ſenate from

\* See alſo a very fine eulogium of eloquence, l. i. De Or. 30. 34, and l. 2.—33.—36.—l. 1. de Inv. 1.—5.

making a shameful peace with Pyrrhus? Did not Cicero's divine eloquence appear more popular than the Agrarian law he attacked? Did it not disconcert the audacious measures of Cataline? And did not he, even in his civil capacity, obtain by it honours, conferred only on the most illustrious conquerors? Is it not the Orator that spirits up the soldier's drooping courage, that animates him amidst the greatest dangers, and persuades him to prefer a glorious death to a life of infamy?

The example of the Romans, among whom eloquence has been always held in the greatest veneration, shall have a more powerful ascendant in my mind than that of the Spartans and Athenians. It is not to be supposed, that the founders of cities could have made an embodied people of a vagabond multitude, without the charms of persuasive words; nor that lawgivers, without an extraordinary talent of speaking, could have obliged men to bend their necks to the yoke of their laws. Even the precepts of moral life, though graved on our hearts by the finger of nature, are more efficacious to inspire our hearts with love for them, when their beauty is illustrated by the ornaments of eloquent speech. Though the arms of eloquence may equally hurt and benefit, we must not therefore look on that as bad, which may be put to a good use. Doubts of the kind may well be entertained by such as make "the force persuasion the end of eloquence:" we, who constitute it "the science of speaking well," resolved to acknowledge none but the good man an Orator, must

must naturally judge, that its advantage is very considerable.

Certainly, the gracious Author of all beings, and maker of the world, has distinguished us in no respect more from other animals, than by the gift of speech. They surpass us in bulk, in strength, in the supporting of toils, in speed, and stand less in need of foreign help. Guided by nature only, they learn sooner to walk, to seek for their food, and to swim over rivers. They have on their bodies a sufficient covering to guard them against cold; all of them have their natural weapons of defence; their food lies in a manner on all sides of them; and we, indigent beings! what anxieties are we not put to for acquisitions of the kind? But God, a beneficent parent, gave us reason for our portion, a gift which makes us partakers of a life of immortality. But this reason would be of little use to us, and would be greatly embarrassed to manifest itself, unless we signified by words our conceptions. This is what animals want more than thought and understanding, of which, it cannot be said, they are intirely destitute. For, to make themselves secure and commodious lodges, to interweave their nests with such art, to rear their young with such care, to teach them to shift for themselves when grown up, to hoard provisions for the winter, to produce such inimitable works as wax and honey, are instances perhaps of a glimmering of reason; but because destitute of speech, all the extraordinary things they do, cannot distinguish them from the brute part of the creation. Let us take a view of dumb persons :  
how

how does the heavenly soul, informing their bodies, operate in them? We perceive indeed, its help but weak, and its action but languid.

If then the beneficent Creator of the world, has not imparted to us a greater blessing than the talent of speaking, what can we esteem more deserving of our labour and improvement, and what object is more worthy of our ambition, than that of raising ourselves above men, by the means they raise themselves above beasts, so much the more, as no labour is attended with a more abundant harvest of glory? To be convinced of this, we need only consider by what degrees eloquence has been brought to the perfection we now see it in, and how far it might still be perfected. For, not to mention the advantage and pleasure a good man reaps from defending his friends, governing the senate by his counsels, seeing himself the oracle of the people, and master of armies; what can be more noble, than by the faculty of speaking and thinking, which is common to all men, to erect for himself such a standard of praise and glory, as to seem to the minds of men, not so much to discourse and speak, but, as Pericles, to make his words thunder and lightning.

## C H A P. XVIII.

*Whether Rhetoric be an Art.*

*Having refuted what is objected to the contrary, he shews Rhetoric to be an Art.*

THERE would be no end, were I to expatiate on this matter, and indulge my pleasure. I shall therefore pass to the following question, "Whether \* rhetoric be an art?" Those, who wrote precepts of eloquence, doubted so little of its being so, that they prefixed no other title to their books than the "art of speaking." Cicero † says, that what we call rhetoric, is only an artificial eloquence. If this was an opinion peculiar to Orators, it might be thought, that they intended it as a mark of dignity affixed to their studies; but most philosophers, as well stoics as peripatetics, assent to what they say. I must confess I had some doubt about discussing this matter, lest it might seem as if I was diffident of its truth; for who can be so devoid of sense and knowledge, as to imagine an art in architecture, in weaving, in pottery; and that rhetoric, the excellency of which we have already shewn, could arrive at its present state of grandeur and perfection, without the direction of art? I am persuaded, that those of the contrary opinion, were more so for the sake of exercising their wit on the singularity of the subject, than from any real conviction. Such, I must

\* See l. ii. de Orat. 30, 31, 32.

† l. De Invent. 6.

think, was the humour of \* Polycrates, when he wrote panegyrics on Busris and Clytemnestra, and by a like oddity of fancy, is said to have composed a discourse pronounced against Socrates.

Some maintain that rhetoric is a gift of nature, yet allow, that it may be helped by exercise. Antonius, in Cicero's books of the † Orator, calls it a sort of observation and not an art. But this is not there asserted as truth, but only to keep up the character of Antonius, who was a connoisseur at concealing art. Lysias seems to be of the same opinion, which he defends by saying, that the most simple and ignorant possess a kind of rhetoric when they speak for themselves. They find something like an exordium, they make a narration, they prove, refute, and their prayers and intreaties have the force of a peroration. Lysias and his adherents proceed afterwards to vain subtilities. "That, what is the effect of an art, say they, could not have existed before the art: but in all times men knew how to speak for themselves and against others; masters of rhetoric having been only of a late date, and first known about the time of Tisias and Corax: therefore an oratorical speech was prior to art; consequently, it could not be the result of art; and therefore rhetoric is not an art." We shall not endeavour to enquire into the time when rhetoric began to be taught; but this we may say,

\* Polycrates, an Athenian, was compelled through want to act the sophist in Cyprus. He wrote a panegyric on Busris, which was condemned by Isocrates, who prescribed for him a manner of better handling his subject. Busris was a tyrant of Egypt, whose brutality and cruelty proceeded to the excess of immolating human victims.

† De Orat. ii. 32.

that it is certain, Homer makes mention, not only of Phoenix, who was a master, skilled both in speaking and fighting, but also of many other orators. We may observe likewise from Homer, that all the parts of a discourse are found in the speech of the three captains deputed to Achilles; that several young men dispute for the prize of eloquence; and that among other ornaments of sculpture on the buckler of Achilles, Vulcan did not forget law-causes, and the pleaders of them.

It will, however, be sufficient to answer, "that every thing perfected by art has its source in nature." If it was not so, we should exclude medicine the catalogue of arts, the discovery of which is owing to observations made on things conducive or hurtful to health, and, in the opinion of some, wholly grounded on experiments. Before it was reduced to an art, tents and bandages were applied to wounds; rest and abstinence cured a fever; not that the reason of all this was then known, but the nature of the ailment obviated such curative methods, and obliged men to this regimen. In like manner, architecture cannot be an art, the first men having built their cottages without its direction. Music must undergo the same fate, as every nation has its peculiarities in dancing and singing. Now, if rhetoric be taken for any sort of speech, I must own it prior to art; but if every one that speaks is not an orator, and if in the primitive ages of the world, men did not speak orator-like; of consequence the orator must have been so made by art, and therefore could not exist before it.

What

What I have said refutes this other objection, “That every thing effected by one’s-self, without learning, does not depend on art: but men know how to speak, though they never learned to speak: therefore, &c.” This argument is confirmed by the example of Demades and Æschines, the first a waterman, the second a comedian. I answer, that no person is properly an orator, unless he has learned to be so; and all that can be alledged concerning \* Demades and † Æschines, will amount to nothing more, than that they applied themselves rather late to eloquence. Æschines, it is certain, was in his younger days put to study the letters his father taught. Of Demades’s learning, nothing positively is asserted, though by the continual exercise of speaking, he might become, as he afterwards was reputed, a great orator. There cannot be a more effectual way to learn; and it may be said, he would have been more perfect, had he been assisted by the precepts of art: but, as he never attempted to publish any of his speeches, we cannot form a competent judgment of his eloquence. . .

The next objection is not so much one in reality, as a mere cavil: viz. “That art never assents to false opinions, because it cannot be constituted as such without precepts, which are always true: but rhetoric assents to what is false: there-

\* Demades, an Athenian orator, was the son of a seaman, who did not send him to learn rhetoric, but brought him up to the business of a rower, or waterman.

† Æschines, the son of Atrometus, a school-master, was first a comedian, afterwards a scrivener, and lastly, an orator.

fore it is not an art." I allow, that sometimes rhetoric says false things instead of true; but it does not follow, that it assents to what is false. There is a wide difference between assenting to a falsehood, and making others assent to it. So it is, that a general of an army has often recourse to stratagems: when Annibal perceived himself to be blocked up by Fabius, he ordered faggots of brush-wood to be fastened about the horns of some oxen, and fire being set to them, had the cattle driven up the mountains in the night-time, in order to let the enemy see he was upon decamping; but this was only a false alarm, for he very well knew himself what he was contriving. When Theopompus the Spartan, by changing cloaths with his wife, made his escape out of prison, the deception did not impose upon himself, but his guards. Thus, when an orator speaks falsehood instead of truth, he knows what he is about; he does not give into it himself, his intention being to deceive others. When Cicero boasted that he threw darkness on the intellects of the judges, in the cause of Cluentius, could it be said he was unacquainted himself with all the intricacies that embarrassed the fact? Or, shall a painter, who so disposes his objects, that some seem to project from the canvas, others to sink in, be supposed not to know, that they are all drawn on a plane surface?

It is again objected, that "every art proposes to itself an end: but rhetoric has no end, or does not put in execution the end it proposes to itself: therefore, &c." This is false, as may appear from what has been already said concerning the end of rhetoric, and in what it consists. The

orator

orator will never fail to obtain this end, for he will always speak well. This objection therefore can only affect those, who make persuasion the end of rhetoric; but our orator, and our definition of art, are not restricted to events. An orator, indeed, strives to gain his cause; but suppose he loses it, so he has pleaded well, he fulfills the injunctions of his art. A pilot is desirous to come safe into port; but if a storm sweeps away his ship, is he therefore a less experienced pilot? His keeping constantly to the \* helm justifies sufficiently he was not wanting to his duty. A physician strives to cure a sick person; but if his remedies are obstructed in their operation, by either the violence of the disease, the intemperance of the patient, or some unforeseen accident, he is not to be blamed, because he has satisfied all the directions of his art. So it is with the orator, whose end is to speak well; for it is in the act, and not in the effect, that art consists, as I shall soon make appear: therefore what is said is false, “that arts know when they have obtained their end, but that rhetoric knows nothing of the matter;” as if an orator could be ignorant of his speaking well and to the purpose.

But it is farther said, that rhetoric, contrary to the custom of all other arts, adopts vice, because it countenances falsehood, and moves the passions. Neither of these are bad practices, and consequently not vicious, when grounded on substantial reasons. To disguise truth, is sometimes allowable

\* The hemistich in the text seems to be taken from some poet. Some quote it from Ennius. *Daem clavam rectum teneam, navimque gubernem, non sum culpandus.* ERASM. in Adag.

even in the sage; and if a judge cannot be brought to do justice, but by means of the passions, the orator must necessarily have recourse to them. Very often the judges appointed to decide, are ignorant, and there is a necessity for undeceiving them in their opinions, to keep them from error. Should there be a bench, a tribunal, an assembly of wise and learned judges, whose hearts are inaccessible to hatred, envy, hope, fear, prejudices, and the impositions of false witnesses, there would be little occasion for the exertions of eloquence, and all that might seem requisite, would be only to amuse the ear with the harmony of cadence; but if the orator has to deal with light, inconstant, prejudiced, and corrupt judges, and if many embarrassments must be removed in order to throw light upon truth, artful stratagem must fight the battle, and set all its engines to work: for he that is beaten out of the strait road, cannot get into it again, but by another turn about. . .

These are the principal objections which have been made against rhetoric. There are others of less moment, but derived from the same source. That rhetoric is an art is thus briefly demonstrated. If art, as Cleanthes thinks, is a power which prepares a way and establishes an order, can it be doubted, but that we must keep to a certain way, and a certain order for speaking well? And if, according to the most generally received opinion, we ought to call art, every thing which by a combination of agreeing and co-exercised precepts conducts to a useful end; have we not already shewn that nothing of all this is wanting to rhetoric? Has it not likewise the two constituent parts of other

other arts, theory and practice? Again, if dialectic be an art, as it is allowed, by the same reason, so is rhetoric, the chief difference lying not so much in the genus as species. But we must not forget this observation, that there art must be, where a thing is done according to rule, and not at random; and there art must be, where he who has learned succeeds better than him who has not learned. But in matters of eloquence, not only an ignorant person will be surpassed by a learned, but also the learned by the more learned; otherwise, we should not have had so many precepts, nor so many excellent masters. This is what ought to be acknowledged by all, but more especially by us, who do not separate eloquence from the man of integrity.

## C H A P. XIX.

*In what class of arts rhetoric ought to be placed.*

**A**MONGST the diversity of arts some of them are found to be merely theoretical, that is, grounded on the knowledge and consideration of their object. Of this kind is astronomy, which not proceeding to act, contents itself with the contemplation of the thing it has made its study. Other arts are called practical, as depending on action, and operating upon, completing, and perfecting their object, besides leaving no sensible work behind them, such as dancing. There are others, which may be called effective, their object being the consummating of some sensible and permanent work, as painting.

We may partly judge that rhetoric consists in action; for it is by action, in the opinion of all, that it performs its duty. It seems to me, however, that it partakes much of the nature of other arts, above defined, because sometimes it may rest contented with the contemplation of its object; for there is rhetoric in a silent orator; and though he should quit the bar, either of his own accord, or from some other motive, still will he be as much the orator, as a physician who ceases not to be one, though he has left off practising. Some, and perhaps the greatest advantages, are acquired by private study, as then, indeed, there may be a pure relish for learning, when the mind, disencumbered of the tumultuous hurry of action, is free to examine into its own resources. Rhetoric may also be so far deemed effective, as it leaves behind it written discourses and history; but if it must be classed with one of the three sorts of arts, its greatest and most frequent use being in action, we shall make no difficulty of calling it practical.

## C H A P.    X X .

*Whether art, or nature, contributes more to eloquence.*

**I**T has been also controverted, which helps eloquence more, art or nature? Nothing is more certain, that both are necessary to form an accomplished orator, and therefore this question can have no relation to the design of our work. But I think it very necessary to know what ought to be meant  
by

by stating the question here. Considering these two requisites separate from each other, nature without learning may effect a great deal, but learning cannot subsist without nature. If they equally concur, and we suppose them to be only in an indifferent degree, nature will have the ascendant; but if in an eminent degree, learning. Just so, a barren piece of ground will mock all hopes from the best culture, but a fertile spot will of itself produce something, and if cultivated, the work of the tiller will contribute more to its fruitfulness than its own native goodness. If Praxiteles endeavoured to form a statue out of a millstone, I should prefer it to a piece of marble in the rough; but if he had polished this piece of marble it would be more indebted in point of value to his art, than to the intrinsic goodness of the materials. And indeed, nature is the matter, and learning the art; the one forms, the other is formed. Art effects nothing without materials to work upon: materials have their value without art; but the master-strokes of art are preferable to the most precious materials.

## C H A P. XXI.

*Whether rhetoric be a virtue.*

THE present question, of greater weight than the former, is to know whether rhetoric be of those indifferent arts, neither laudable nor reprehensible in themselves, and either good or bad according to the use made of them; or whether it be a virtue, as seems agreeable to the sentiments of most philosophers?

For

For my part, I must confess, that far from acknowledging art in the generality of those who make it their business to speak in public, I see nothing but a \* privation of art, being persons of neither reason, nor judgment, nor letters, and more acted by impudence or hunger than any laudable motive. In others, it becomes a † pernicious art, so far as in all times there have been, and will be persons, who have, and will employ the talent of speaking to the prejudice of mankind. In others, it appears to be a ‡ vain imitation of art; indeed, neither good nor bad, but nugatory and frivolous, and not unlike the ridiculous occupation of that man, who could pitch at a certain distance through the eye of a needle a parcel of peas, one by one, without missing his aim. Alexander saw him once at this work, and bestowed on him a bushel of peas, a present worthy of so becoming an application. And in this class we may rank such as with great study and labour, spend their time in composing declamations, which they take care to make as remote from truth as possible. That eloquence, however, which we endeavour to form in this work, and of which, as the true rhetoric, and the only suitable to the good man, we have conceived the image in our mind, will and must be a virtue.

This philosophers prove by many acute and subtle arguments; but we have some of our own, which may seem more clear and conclusive. If there be a prudence, say they, in knowing what ought to be done, and what ought not; by the same rea-

\* ἀτιχία.

† κακοτιχία.

‡ καταίτιχία.

son, there ought to be in knowing what ought to be said, and what ought not: and if there be virtues, without any previous instruction, the initials and seeds of which we imbibe from nature, as justice, of which even peasants and the most savage have some idea; in like manner, it is manifest we are so formed from the beginning, as to be able to plead for ourselves, and if not perfectly, at least to the degree of making known that the seeds of that faculty, as I said, are implanted in us; but of this we have no experience in arts incompatible with virtue. As therefore there are two kinds of discourse, the one continued, which is called rhetoric; the other interrupted, called dialectic, which indeed Zeno so slightly distinguished, that he compared the latter to a fist, and the former to an open hand; can it be doubted that the more plain and specious is a virtue, when all assign that quality to the contentious?

This may appear in a more eminent degree from the works of an orator. How should he acquit himself of a panegyric, if he was unacquainted with morality? How should he be capable of giving advice, if he neither knew nor attended to the advantage of those that consult him? How should he plead causes, if he was ignorant of what justice required to be done? If he has not courage and constancy, how should he speak freely his sentiments, sometimes at the hazard of being the victim of a seditious people; sometimes by incurring the hatred of men in power; and even sometimes, as it happened in the cause of Milo, when every thing about him wears the horrid aspect of armed force? Whence I conclude, that

if rhetoric be not a virtue, eloquence cannot be perfect.

If we consider as a perfection, the distinguishing quality of every animal, by which it excels others, as strength in lions, speed in horses; and if man, as he does in fact, excels all others in reason and the faculty of speech; why should we not make eloquence as well as reason his specific perfection? This Crassus aptly illustrates in Cicero's books of the Orator, saying that "eloquence is one of the greatest virtues; and Cicero, in his own character, calls it a virtue, in his letters to Brutus, and in many other places.

But our adversaries may say, that a bad man will make an exordium and narration, and use proofs and arguments, all equally good and cogent in their kind. Granted: and so also a robber will fight stoutly, yet fortitude will be a virtue. A vicious slave will patiently endure tortures, yet constancy will not be deprived of its praise. Many do the same things, but their motives are different.—What therefore has been said may suffice to shew that rhetoric is a virtue. As to its utility, it has been already spoken of.

## C H A P. XXII.

*Of the matter of rhetoric, which comprehends all things that may be subjects for discoursing on.*

... **M**Y opinion is, which is not without good authority to support it, that the matter of rhetoric includes all things, that may be subjects for being discoursed on. Socrates in Plato seems to say to Gorgias, that it is not of

\* De Orat. iii. 55.

words but of things that the matter of rhetoric consists; and in Phædrus he says plainly, that rhetoric, not restrained to judicial and deliberative speeches, takes in also most private and domestic concerns. Hence, it is evident, that so Plato himself thought. Cicero likewise, in a certain place, calls the matter of rhetoric the things which are \* subjects for it, and determines what these things are; but in another place he excepts nothing, as where he says †: “The Orator seems to be engaged by his profession to speak eloquently on every proposed subject:” and in another ‡: “As the Orator has not a less scope to take in and enlarge on than the life of man, he ought to be read, intelligent, and conversant in, and ought to examine, dispute on, and treat of every thing.”

Some are displeased with the latitude we have taken, observing that we either assign to rhetoric an infinite matter, or one not proper to it; and because of its speaking indiscriminately on all subjects, they are pleased to call it a circulating art. I have no intention to quarrel with those opponents. They allow that it speaks of all subjects; but deny it to have a proper matter, because manifold. However, though so characterized, its object is not the more infinite. Arts less considerable than ours are not circumscribed by much narrower bounds. Architecture takes in all the necessary implements for building. Engraving, gold, sil-

\* This same argument has been amply treated by Cicero in the first book of his Orator, from number 45 to 74.

† De Orat. i. 21.

‡ De Orat. iii. 54.

ver, brass, iron. Sculpture, wood, ivory, marble, glass, gems, metals. A thing therefore may be equally of the object of rhetoric, and of another art. If I ask a statuary, what his matter is, he may answer me, brass. If I ask a brasier, what his is, he will answer, brass. But there is a great difference between vessels and statues. There is a great difference between the medical art, and the arts of academical exercises, and of cookery; yet medicine has some things common with them, but is not therefore less an art.

It is the business of philosophy, so say our antagonists, to examine into, and discuss the moral fitness of things. This I readily allow. The characters of the philosopher and the good man, are inseparable; the acceptation of the words is the same: why then must it cause surprize, if the Orator, between whom and the good man I place no distinguishing mark, should treat of the same matter; especially, as having shewn in the first Book, that philosophers took possession of this part on its being neglected by Orators, which indeed was always the property of rhetoric; so that they should rather be thought to have intruded on our province? Dialectic has for its object all the things it undertakes to dispute upon, ought then rhetoric to suffer a limitation, which only differs from it in a more diffused style and manner?

Again, it is objected, that an Orator ought to be skilled in all arts, if he is to speak of all. I answer this in Cicero's own words. "In my opinion \*, says he, no one can be thought to have attained to the perfection of Oratory, unless he is

\* De Orat. i. 20.

learned in all matters of importance, and has a competent knowledge of arts and sciences." But it is enough for me if he be master of his subject. He may not be acquainted with every cause, or question that is agitated; yet ought he to be capable to speak of them. Of which therefore shall he speak? Of those he has learned. In like manner of arts, which are to be spoken of, he will acquire a proper information; and when he has got this information, he will be able to speak to the point in debate. What then? Will not an artizan make himself better understood in what relates to his trade, or a musician explain better the nature of his science? Yes, certainly, if the Orator is no way intelligent in these matters; for a peasant and an illiterate person, will talk more pertinently in their own suit, than an Orator who is ignorant of the point to be litigated. But let the Orator have some necessary insight, and he will speak better and more to the purpose, than the musician, artizan, or peasant. It is true, the artizan and musician may clear up and argue cases very exactly in regard to their respective professions, but will not therefore be Orators, though they may act as such; no more than a man can be reputed a physician for binding up a wound, though so far he acts the part of one.

But do these particulars never become subjects of discussion in the demonstrative, deliberative, and judicial kinds? When the constructing of a \* harbour at Ostia, was so often deliberated upon, were not our Orators consulted about the matter?

\* Julius Cæsar designed to make this harbour, and it was at length completed by the Emperor Claudius.

Yet this was the business of architects. It belongs to physicians to examine, whether tumours and livid spots on the body, be indications of poison, or rather denote crudities from a debility of concoction in the stomach. Was an Orator never obliged to enter into the merits of a scrutiny of the kind? Whatever regards dimensions and numbers, is treated of by geometry; but are they never subjects of discussion for Orators? Almost every thing in my opinion may be incident to the Orator's duty, may be illustrated by the colours of eloquence; and should any thing be supposed not within its sphere, it will not be of its object. We therefore make the matter of rhetoric to consist in all the things it may undertake to speak of; and this is what the occurrences of common discourse sufficiently demonstrate; for when we have any subject to speak on, we generally introduce it by some preface, expressive of its nature and import. . .

Authors likewise, but very few in number, have disputed concerning the instrument of rhetoric. I call an instrument that, without which the matter cannot be formed, and wrought into the intended work. This, I apprehend, is not so much wanting to the art, as to the artist; for sciences do not stand in need of instruments, being in themselves, and separate from action, sufficiently perfect: so that, it is the engraver that must have an occasion for his graving tool, and the painter for his pencil. We therefore refer the examining of this question to the \* place where we design to speak of the Orator.

\* Lib. xi. and xii.

## B O O K III.

## C H A P. I.

- I. *He observes that this Book is less calculated for pleasure than any of the rest.* II. *He treats of the different writers on the art of rhetoric, as well Greeks as Romans.*

I. **H**AVING examined in the second Book, what rhetoric is; and its end; and having shewn to the utmost of our abilities, that it is an art, and useful, and a virtue, and has for its object all the things that may admit of being spoken of; we shall now see what its origin is; what the parts are that compose it; and in what manner every thing is to be invented and conducted.

Most writers on the art of rhetoric, have treated only certain parts, and of these Apollodorus confined himself intirely to the judicial kind; but we, for the satisfaction of the studious, have made a more ample provision of matter. We are, however, not ignorant, that the book we are here entering upon, is embarrassed by great difficulties on account of the diversity of opinions; and may also be likely to disgust the reader by the dryness of precepts, of which a naked exposition seems all that is necessary.

Hitherto we have endeavoured to embellish our work with something agreeable, not for making an ostentatious shew of wit, as for that purpose we could have chosen a more copious matter; but in order that young persons, induced by some

pleasure in reading, might the easier receive the instruction we judged necessary for helping their studies ; which, if it had been conceived in a dry hungry manner, there was reason to fear it would beget loathing in their minds, and grate with harshness on their delicate ears. In a similar view, Lucretius says, he delivered the precepts of philosophy in verse, and therefore uses this familiar comparison.

Nam veluti pueris absinthia tetra medentes  
Cum dare conantur, prius oras pocula circum  
Contingunt mellis dulci, flavoque liquore.

Physician-like, who when a bitter draught  
Of wormwood, is disgusted by a child ;  
To cheat his taste, he brims the nauseous cup  
With the sweet lure of honey. —

And indeed, I am apprehensive, that this Book may seem to have little honey in it, and a good deal of wormwood ; that is, may be more salubrious than sweet to studies.

I also fear, that it will not be so favourably received, because the better part of the precepts it contains, are not of my invention, but such as have been delivered by others. It may meet too with opponents, and some of different opinions, because most authors, though they had the same aim in view, took to different ways, and each was not without his followers. These likewise approve of the route they entered upon, whatever it be ; and we find it no easy matter to alter a persuasion imbibed in early youth, because there is scarce one but would rather retain what he has learned than

learn a-new. It will therefore appear from the sequel, that opinions became vastly multiplied, and this chiefly owing, first to an itch in authors for retouching and polishing what was left rough and imperfect by others; and secondly, that they might seem to have added something of their own, to the many alterations they made, even in what was right.

II. Next to those mentioned by poets, Empedocles is said to be the first who had any notion of rhetoric. Corax and Tisias, both Sicilians, were the first who wrote rules upon it. They were succeeded by their countryman, Gorgias of Leontium, supposed to be a disciple of Empedocles. This person, by the advantage of a long life, (for he lived to an hundred and nine years) flourished in the times of several famous rhetoricians, having outlived Socrates, and been a rival in fame to those just mentioned. After him appeared Thrasymachus the Chalcedonian, and Prodicus of Ceos, and Protagoras the Abderite, to whom Evathlus is said to have paid \* ten thousand Denarii for teaching him the rhetoric, of which he published a treatise. To these are added, Hippias of Elis; Alcidas of Eleas, called by Plato Palamedes; and Antiphon, who composed the first judicial harangue, wrote rules for this new manner of composition, and had the reputation of pleading extremely well in his own defence. Polycrates also, whom we already mentioned to have written an oration against Socrates; and Theodorus of Byzantium, who was one of those called by Plato

\* About 250*l.* sterling of our money.

' nice \* architects of words.' Of the above enumerated, the first said to have treated common places, were Protagoras, Gorgias, Prodicus, and Trasymachus. Cicero, in his † Brutus, says, that nothing had been written with the beauties of eloquence before the time of Pericles, some of whose pieces are said to be extant. For my part, I see nothing in them worthy of the reputation of so great an Orator; and therefore am the less surprised in finding some of opinion, that he never wrote any thing, and that the works ascribed to him, have been composed by others.

These were succeeded by a good many, but the most famous was Isocrates, a disciple of Gorgias. We believe him to be such on the testimony of Aristotle, though it is doubted who his master was. Then began different sects of rhetoricians. Isocrates had scholars, who excelled in all kinds of sciences; but when he grew old, for he was full ninety-eight years of age when he died, Aristotle kept a ‡ rhetorick-school in the afternoon, and was heard often to repeat on the occasion, a || verse of the tragedy of Philoctetes, intimating, that

\* λογοδαίδαλος, they who are over solicitous in polishing their discourses, or over studious in point of elegance.

† N. 27.

‡ This Cicero gives a good account of, l. iii. de Orat. n. 147. He calls schools, dissertations, disputations, and instructions. The Greeks called schools, not so much places resorted to for learning, as disputations, lectures, and the like, as appears from Tusc. i. n. 7.

|| Δίσχρον σιωπᾶν, καὶ Ἰσοκράτην ἰᾶν λέγειν. Most commentators are mistaken in supposing this verse to be in the Philoctetes of Sophocles. In that tragedy, whoever was the author of it, Philoctetes says, "it was shameful for him to be silent and let barbarians speak;" Δίσχρον σιωπᾶν, βαρβάρους δ' ἰᾶν λέγειν. Aristotle applied it to Isocrates, but in another sense.

“ it was a shame to be silent and suffer Isocrates to speak.” They two were the first that reduced rhetoric to an art, and Aristotle wrote many books on the subject. Theodectes was their contemporary, whose work has been already mentioned. Theophrastus, a disciple of Aristotle, wrote also very accurately on rhetoric; and hence it was that philosophers shewed a greater passion than rhetoricians, to discuss and elucidate these matters, especially the Stoics and Peripatetics. Hermagoras afterwards cut out, as it were, a new road for himself; he had many followers, but Athenæus seems to have copied him best. Some time after appeared Apollonius Molon, Areus, Cæcilius, and Dionysius of Halicarnassus, who all distinguished themselves by writing several learned tracts. But the two most celebrated, and noted for the greatest number of disciples, were Apollodorus of Pergamus, the preceptor of Cæsar Augustus at Apollonia; and Theodorus of Gadara, who chose to call himself a Rhodian. Tiberius Cæsar is said to have attended diligently to his lectures during the time of his retreat in that island. These two rhetoricians held very different opinions, whence their disciples, after the manner of philosophic sects, were styled Apollodoreans and Theodoreans. Apollodorus’s precepts are best known from the collection his disciples made of them. Caius Valgius has given them very exact in Latin, and Atticus in Greek. Himself left only behind him a small treatise of rhetoric, which he dedicates to Matius, and disowns all other pieces in his letter to Domitius. Theodorus wrote more than he did,

150 Q U I N T I L I A N ' s    B O O K   I I I ,  
and some now living, had seen his disciple Her-  
magoras.

The first of the Romans, as well as I could learn, that composed something in this way, was Cato the Censor. Next to him, Marcus Antonius wrote a treatise of eloquence ; it is the only work we have of his, and that same imperfect. After them we had many writers of less repute, whom I shall mention, when occasion requires. But Cicero, the ornament of eloquence, was incomparable in all respects, either in quality of Orator or rhetorician ; and it would be modesty in us to be silent after so great a master, did not himself inform us, that his books of rhetoric had slipped, as it were, out of his hands, when he was but young. We have his books of the Orator, which are admirable ; but the precepts regarding the Orator's first institution, much wanting to several, have been by him designedly omitted. Cornificius wrote not a few things on the same subject. Stertinus, and Gallio, the father, wrote also something. Celsus and Lenas, though more ancient than Gallio, were more accurate. Of our age, were Virginius, Pliny, and Rutilius, remarkable for a like degree of accuracy. At present too, may be reckoned several illustrious authors on the same subject ; who, if they had embraced all things, would have eased me in this task. As they are yet living, I shall not name them ; their praise will come in its due time ; for true glory will live in the bosom of posterity, and then it is that the shafts of envy will be ineffectual.

The respect, however, I have for so many and such eminent authors, shall not deter me from  
giving

giving sometimes my own opinion. Not being scrupulously devoted to any particular sect, I thought it necessary to muster together a plenty, that the reader might have wherewithal to chuse, and to chuse as he pleases: and, as I here make a digest of the inventions of many, I shall, wherever no room is left for displaying wit, content myself with having deserved the praise that is due to an exact writer.

## C H A P. II.

*What the origin of rhetoric is.*

*Nature furnished the initials of speaking: observation  
the initials of art.*

THE question concerning the origin of rhetoric shall not detain us long; for who can doubt of its being nature, the parent of all things, which had taught men first to speak? No other origin can be assigned. The common good improved afterwards and enlarged the faculty of speaking, and reflection and practice brought it to perfection. I cannot conceive how some imagine that the care of well speaking had its beginning from those, whom the danger of being hurt by unjust accusations, made eloquent in their own defence. This perhaps is the more plausible, but not the first cause; for accusation is prior to defence, unless one should say that arms were rather first fabricated for self-preservation, than for attacking others.

The beginning then of speaking had its source in nature, and the beginning of art in observation: for, as men from their observation of wholesome and unwholesome qualities in things, formed medicine into an art; so likewise, when in speaking they discovered many useful and useless things, the first to imitate, the second to avoid; other things were added according to their analogy, all were made authentic by use, every one taught what he knew, and thus the art of speaking was insensibly formed. Cicero attributes its \* origin to lawgivers and founders of cities, who indeed, must have had an occasion for great powers of eloquence in order to effect their designs; but I cannot see how this could be its primary origin, because many nations still exist without fixed abodes, cities, and laws; and yet all of them have equally with us their deputies and ambassadors; they accuse and defend; and some among them are supposed to have superior talents to others in speaking.

### C H A P. III.

*That there are five parts of rhetoric.*

THE whole art of oratory, as we find it delivered by the generality of the greatest masters, consists of these five parts: invention, disposition, elocution, memory, pronunciation or action. Now every coherent texture of speech, enounced with an intention of signifying, must necessarily express things by the means of words.

\* Lib. i. de Invent. n. 2 and 3. and l. i. de Orat. n. 33.

If short, and comprehending only a single proposition, it will perhaps require nothing more, if longer, it will. For we must not only know what ought to be said, and how it ought to be said, but also in what place it ought to be said, which makes disposition; and we cannot say all things the subject requires, nor every thing in its proper place, unless assisted by memory, which will therefore hold the fourth place; and if pronunciation be faulty, either in voice or gesture, it spoils all; consequently it must possess the fifth place. . .

## C H A P. IV.

*That there are three kinds of causes.*

IT has been proposed as a doubt, whether there are three only, or more kinds of causes. The greatest writers of antiquity have acknowledged but three, in this following the judgment of Aristotle, who gives only another \* name to the deliberative kind, in order to adapt his ideas to the democratic form of government then established at Athens. . . The surest way is undoubtedly to follow the general and received opinion of authors, which also seems to be the most rational. There is therefore a kind, allotted for praise and dispraise; but it derives its name from the more noble of these two functions, panegyric, called by others demonstrative. . . The second, is the deliberative kind; the third, the judicial. All species whatever are included in these three kinds, and there is

\* *δευρυρητικον*, concionalem, the kind that was used in the assemblies of the people.

not one of them but proposes to praise or dispraise, to persuade or dissuade, to accuse or defend. . .

There is another division, rather specious in appearance than true in fact, which assigns what is honest to the demonstrative, what is useful to the deliberative, and what is just to the judicial. But all three subsist by the help they give each other. Justice and utility are discussed in subjects of praise ; honesty in subjects of counsel ; and scarce a judicial cause occurs without containing one or other of the things above mentioned.

## C H A P .    V .

- I. *That there are three duties of an orator.* II. *That questions are indefinite or finite.*

I. **E**VERY discourse consists of what signifies or what is signified, that is of things and words. The faculty of making a discourse is accomplished by nature, art, and exercise ; some add imitation, but I do not separate it from art. There are also three \* things, as duties incumbent on the orator to perform, and these are, to instruct, to move, and to please. . But all of them do not equally suit the subject, some things not being susceptible of passions, though where-ever they find admittance they are productive of wonderful effects. . .

II. Authors are agreed † that questions are either indefinite or finite. Indefinite abstract from

\* See Cic. l. iii. de Or. 115, 128, 129.

† See l. ii. de Orat. 133.

persons, times, places, and like circumstances, and are argued pro and con. The Greeks call them theses; Cicero, propositions. . . Finite include the consideration of things, persons, times, and other circumstances. They are called by the Greeks hypotheses, and by us causes; and the question in all of them seems restricted to things and persons. The indefinite is always more extensive, for the finite proceeds from it: for example, "Whether a wife ought to be married?" is an indefinite question; "Whether a wife ought to be married by Cato?" a finite. . .

Every particular question denotes or includes a general, prior to it; and, for aught I know, there is something general in causes, when any thing relating to quality belongs to the question. Milo killed Clodius, and killed him justly, because Clodius lay in wait for him, and attempted his life. The question then must be, "Whether it is not lawful to kill a man, who attempts our life?" . . .

Moreover, in questions referred to a person, as it is not enough to treat the question in general, so we cannot come to the species, unless by first discussing and considering the question in general. For how shall Cato deliberate whether he ought to marry a wife, unless he perceives some utility annexed to the marrying of one; and how shall he marry Martia, unless persuaded that he ought to marry? . . .

## C H A P. VI.

*That there is a three-fold state.*

... **T**HE \* state of the cause is that which the orator proposes chiefly to himself to obtain, and which the judge understands he must particularly examine into; for on this the cause is built. . \* .

Most authors have distinguished three general states; of † conjecture, definition, and quality. This is the division Cicero adopts in his books of the Orator, and thinks every matter of debate and contention may regard, “Whether the thing is, what it is, and of what sort it is? . . \* .

Now, should my opinion be enquired into, I must confess that it is somewhat different from that I was of formerly; and perhaps it might be more to my credit to maintain to the last, what I not only approved of, but taught also for many years. But I would have nothing reproached me in a work of this kind, wherein I have nothing more at heart than being useful to well disposed youth. Hippocrates, so famed for his superior knowledge of the medical art, made no difficulty of ingenuously

\* Of the threefold state, see Cicero. l. ii. de Orat. 104, 114.

† The state of a cause is therefore threefold: conjectural, in which the question is, and ought to be considered, whether the thing be done: as in the oration for Cælius, the question is, whether Cælius prepared poison for Clodia. Of quality, in which the question is concerning the sort of thing that has been done, as in the oration for Milo, whether his act of killing Clodius was lawful or unlawful. Definitive, wherein the question requires the fact to be defined; as in the oration for Plancius, whether the largess of money by him, could be termed bribery.

confessing

confessing some of his \* mistakes, that posterity might not fall into the same. Cicero made no scruple of condemning some of the books he had published, in others afterwards written by him, as his † Catulus, and Lucullus, and his books of rhetoric, which I above mentioned. And indeed, there would be no occasion for farther labour in study, if it was not permitted to invent any thing better than our first thoughts. However, the precepts I then inculcated will not be useless; for what I now say will tend to the same end, and so no person may regret having learned. All I endeavour at, is to make a more exact collection of the same things, and to dispose them in better order; and I would have every one know, that what I here earnestly recommend to others, I am thoroughly convinced of in point of truth myself. . \* .

Let us therefore believe those, to whose authority even Cicero has submitted, acknowledging, that three questions only can arise in all manner of controversies; as, “Whether a thing be, what it is, and of what sort it is?” This nature herself teaches us; for first we conceive that our doubts must have some object, and we cannot form a judgment on the nature of this object and its quality, unless we previously are assured that it exists.

\* Hippocrates, in the cure of a person, who had been struck by a stone on the head, writes that he fell into an error, by not attending to the sutures of the skull. Celsus takes notice of this in his eighth book, chap. iv.

† The two first books he wrote of Academic Questions. Afterwards, he wrote four, which he dedicated to Varro and Atticus. See book thirteenth of his Epist. to Atticus, especially the Epist. xii. and xiii. and book i. de Orat. n 5.

This

This therefore will be the first question. But to be certain of its existence, does not argue that we know what it is. This too cleared up, nothing more remains but quality, beyond which there is nothing. . \* .

Now, as I divided all causes into three kinds, I shall follow the prescribed order.

## C H A P.    V I I .

### *Of the demonstrative kind.*

I. *Among the Romans this kind also is adopted in business.* II. *The praise of Gods.* III. *The praise of men and their dispraise.* It is of some concern where every one is praised. IV. *The praise of cities and places.*

I. **I** Shall begin with the kind that is calculated for praise and dispraise. Aristotle, and Theophrastus who was of his opinion, seem to exclude it all civil affairs, and restrain its functions to the exciting of pleasure in an auditory, because this is all that can naturally be expected from the shew and ostentation, whence it borrows its name. But the Roman usages and customs have given it a place in the transactions of civil life; for funeral orations are duties frequently annexed to some public office, the pronouncing of them being often given in charge to our magistrates by a decree of the senate; and to commend or depreciate the character of a witness is of some moment in trials. Persons also, cited in justice, are allowed to retain their panegyrics; and the defamatory memorials  
published

published against those who stand in competition with each other, as against Piso, Clodius, and Curio, have been sometimes of weight with the senate to repute them as verdicts in their disfavour. I do not deny, but that in this kind, some discourses are intirely calculated for ostentation, such particularly as are composed in honour of the Gods, or the illustrious men of past ages. . .

Now, as praise in civil matters requires to be proved, so also praise in matters of ostentation requires an appearance of proof: whoever would assert that Romulus was the son of the god Mars, and was miraculously nursed by a she-wolf, might use the following arguments as a proof of his divine origin: first, that cast into a river, he could not be suffocated by the waters; secondly, that in all his actions he exhibited himself the worthy offspring of the god of war; and thirdly, that his cotemporaries made no doubt of his being received into heaven. The orator may also palliate certain blemishes that sully the fame of heroes, as in making the eulogium of Hercules, he may contrive some means to excuse his exchanging his garb for the soft dress of the queen of Lydia, and his debasing his manly character, by complying with the ignominious task of spinning.

It is the property of praise to amplify and adorn things, especially gods and men, and sometimes animate and inanimate beings.

II. In regard to gods in general, we first respect the majesty of their nature; next, descending to particulars, we may pass encomiums on their power, their inventions, and the several advantages in life they have introduced amongst men.

Power

Power is displayed, as in Jupiter, by his governing mankind; in Mars, by his presiding over war; in Neptune, by his ruling the ocean. Inventions are commended, as of arts, in Minerva; of letters, in Mercury; of medicine, in Apollo; of corn, in Ceres; of wine, in Bacchus. If antiquity has transmitted to us any of their illustrious actions, we duly commemorate them. Parentage also is an additional honour to the gods, as in being the son of Jupiter; and so is antiquity, when any of them immediately derive from Chaos. Children too are an honour to their parents, as Apollo and Diana to Latona. In some, immortality is the ornament of their birth; in others, the reward of their virtue, which we observe to the glory of our age, in the person of our good and gracious \* prince.

III. The praise of men has more variety in it, and is first distinguished by the time that preceded their birth, the time of their life, and what happened after their death. Country, parents, ancestors, preceded their birth, which may be considered two ways: if noble, they have equalled the glory of their progenitors; if otherwise, they have dignified the obscurity of their birth by the lustre of their actions. Other particulars may also be enumerated, especially presages, if any, of fu-

\* This is an impious piece of adulation. Domitian had commanded that he should be styled a god; but was a monster of infamy for cruelty, lust, and all manner of vice. I know not, says the learned Burmann, but that the word "*pietas*" rather puts us in mind of Quintilian's having in view the temple of the Flavian family, which Domitian had procured to be consecrated in honour of his father Vespasian, and brother Titus, as new gods, of which we find some in Suetonius's *Life of Domitian*.

ture grandeur, as of the son of Thetis, who, as the oracle declared, was to be greater than his father.

Personal encomiums are deducible from the qualities of the mind, body, and external advantages. The latter are the least considerable, and are spoken of differently according as the party is more or less accomplished with them. One time, the comely form and strength of the hero are expatiated upon, as Homer does in regard to Agamemnon and Achilles: another time, the weak frame of the body raises our admiration; so the same poet represents Tydeus, diminutive in size, but a gallant soldier. The same may be said of the goods of fortune, for if on one side they exalt merit, as in kings and princes, who, as more powerful than other men, have more abundant means of shewing their goodness of heart; so, on the other side, the more one is destitute of these helps, the brighter is the lustre of pure and genuine virtue. But all extrinsic and fortuitous goods do not render man praise-worthy for possessing them, but for the good use he makes of them; for riches, power, and interest, by placing us in a condition of life, which affords great opportunities for exertions of vice or virtue, make the surest trial of our morals, and always exhibit us as worse or better.

The goods of the mind are always truly laudable. This is a copious subject, and the orator has a variety of resources for displaying his talents. He may follow the order of time and actions, and in the first years commend the genius and good disposition; next he may pass to education and ac-

quired sciences, and afterwards to the consistent tenour of life in words and actions. To treat his subject in a different manner, he may reduce all to certain virtues, as fortitude, justice, temperance, assigning to each how far their votary has produced a copy of them in his life. It is the subject that must determine the better of these two ways; and the more a thing is singular, the greater will be the pleasure of the auditory; for undoubtedly great must be their admiration when they hear, that this was the only man, or the first that did so; or that very few can share the glory with him; or that he exceeded expectation; or that in what he engaged and accomplished, he shewed a true disinterested spirit.

As to the time, subsequent to the death of a man, it does not always happen to be treated of; because, not only we sometimes praise them whilst still living, but also have but few examples of men, in honour of whom decrees of deification have passed, as statues have been erected to perpetuate their memories. Amongst these may be ranked the monuments of genius, as such books and writings as have stood the test of many ages; for some authors, as Menander, have found the judgment of posterity more favourable than that of their own age.

Children are an honour to their parents, cities to their founders, laws to their givers, arts to their inventors, and institutes to their authors; as our religious ceremonies revive the memory of the pious Numa, and the fasces, submitted to the authority of the Roman people, for ever endear to them the name of Publicola.

The same order may be kept to in dispraise, but with a variation in the colouring; for if the meanness of birth be a disgrace to some, so also is nobility of birth to many, whose vices it makes more conspicuous and brands with deeper infamy. Predictions gave sufficient warning of the calamities Paris was to bring upon his country. Therfites, ugly and mishapen, as Homer paints him, becomes the laughing-stock of the Greeks. Nireus a coward, and Plilthenes a debauchee, shew us that a graceful form without virtue ingenerates contempt. A mind may be as remarkable for vicious as virtuous qualities, and these may be treated both ways as directed for opposite subjects of praise. Infamy has reached some, even beyond the grave, as \* Melius, whose house was levelled with the ground. The surname Marcus was for ever obliterated in the family of Manlius. We hate also the parents of vicious persons; and some to their reproach have founded cities, by muttering together a people, detested by other nations, as the first † author of the Jewish superstitions; and others have enacted laws, but execrated, as those of the Gracchi. . . As to the living, the judgment of the public, must be the rule of our esteem; and the good or bad reputation they have

\* See in Livy the history of Melius, l. iv. n. 16. and of Manlius, l. vi. n. 24.

† Some understand this passage of the Jews, whose religion the Romans hated. Alciatus, however, thinks it applicable to the Christians, to whose religion the Romans gave the name of Jewish superstition, because Christianity came from the Jews. So also the lawyers were accustomed to call it, and in Quintilian's time, a persecution, by Domitian's orders, took place against the Christians.

acquired, will be a sufficient sanction for our praise or dispraise.

Aristotle \* thinks that some consideration ought to be had of the place wherein, and the persons before whom we speak on subjects of praise and dispraise. For it is of singular consequence to be acquainted with the disposition of the auditors, to know their real sentiments of the matter, their prejudices, and the bent of their morals, that the virtues on which are grounded the person's eulogium, may create in them pleasure, as knowing them to be such, or his vices disgust. The orator must likewise always remember to pay some compliment to his † auditory. This will incline them to a more favourable reception of what he says; but his compliments must naturally fall in with the subject, and have in view whatever is useful in it. At Sparta, sciences and the love of letters will stand lower in estimation than at Athens; but in requital, bravery and patience will receive greater applause. To live upon plunder is reputed honourable among some nations, whilst others pride themselves for strictly observing the laws of civil polity. Notions of frugality might perhaps be

\* Rhet. i. c. 9.

† *Iptorum* in the Latin text, scilicet *audientium*, which word Rollin says, is read as a marginal note in one of the manuscripts he had perused. That manuscript makes no mention of the word *Judicum*, found in some printed editions; and nothing here occurs relating to judges, nor is any mention made of them by Aristotle, in the passage here cited, viz. l. i. Rhet. c. 9. But the same l. iii. c. 14. towards the end, where he treats of the exordium, manifestly advises inserting the praise of the auditor in the demonstrative kind. Where, from what follows a little lower down, some fault may be suspected to have crept in, where is read: *maximè faciet judicem, qui sibi dicentem assentiri putat.*

abominated by the Sybarites, whilst luxury would be deemed a heinous crime by the old Romans. A like difference is to be attended to in regard to the disposition of any particular person, who may relish but indifferently what the orator says, unless he seems to correspond with his way of thinking.

Aristotle adds another precept, of which Cornelius Celsus, by overstraining it, seems to have perverted the use. This is, from the proximity of vice and virtue, to qualify them so as to disguise the real light they would otherwise appear in. Thus rashness may be made to pass for valour, prodigality for liberality, avarice for frugality, and vice versa. But the orator, I mean the good man, will never do this, unless from cogent motives of public utility.

IV. Cities have their praise, as well as men. The founder of them is looked upon as a father; their antiquity renders them very considerable; for which reason we see\* people who boast themselves as ancient as that tract of the earth they inhabit, and are confident of having preserved traditionary accounts of all their transactions, whether virtuous or vicious. These considerations are for cities in general; but there are some peculiar to them, deduced from their situation, their fortifications, their citizens, whose glory makes that of the state, as the glory of children reflects on their parents. There is a praise likewise annexed to public edifices, whether their magnificence, utility, beauty, or their builder is celebrated; as magnificence in temples, utility and safety in walls and ramparts,

\* Indigenæ, i. e. inde geniti, et in eodem loco nati.

a beautiful and noble style in both, and all heightened by the reputation of the founder. Certain places are also the theme of praise, such is Sicily, as represented in that elegant description of \* Cicero. Their beauty and advantage are principally considered: beauty in harbours, plains, and pleasant groves and meadows: advantage, in the wholesomeness of the air, fruitfulness of the soil, and the like. The praise of all words and actions is general: in short, what is not praised? Physicians have made the eulogium of certain aliments; sleep too and death have had their panegyrist. As therefore I would not allow this demonstrative kind to be confined entirely to questions relating to what is honest; so I believe it ought to be comprized in quality; though in it all the three states may unite, which Cicero observed in Cæsar, who used them in all his harangues against Cato. And indeed, we may say that this kind bears some relation to the deliberative, because the same things praised in the one, are enforced by persuasion in the other.

\* Verr. iv. 2. &c.

## C H A P. VIII.

*Of the deliberative kind.*

- I. *That utility alone is not sought for in it.* II. *Of its exordium and narration.* III. *That three things are to be attended to in counselling; 1. What it is that is deliberated upon. But the parts of counselling are what is honest, useful, possible, and he rejects what is necessary. 2. Who those are that deliberate. And here he informs us, how with propriety the vicious may be advised to pursue what is honest, and the virtuous what in some measure may be thought unseemly. 3. Who it is that counsels.* IV. *Of prosopopæias, or declamations in the deliberative kind.* V. *What sort of eloquence suits best deliberative harangues.*

I. **I** AM surprised how some authors could have circumscribed the \* deliberative kind by utility alone. If there was a necessity of reducing it to one only object, I should chuse to follow the opinion of † Cicero, who made this matter to consist chiefly in dignity. However, as I make no doubt that these authors, according to the specious maxim of Stoics, acknowledge “nothing useful but what is honest,” I would willingly allow the truth of their assertion, were we always to deliberate in concert with wise and virtuous men; but unhappily it is our fate to talk before a people

\* On the deliberative kind, see Cic. l. ii. de Orat. 333—340. In Partit. 83—97.

† Orat. ii. 534.

generally speaking ignorant, to whose intellects, it being their duty to decide these matters as judges, we must adapt our words and ideas. There are, indeed, many, who do not think some things sufficiently useful, which they believe to be honest; and other things, which they cannot doubt of being base, they approve of as recommended by an appearance of utility. Of this are proofs, the \* Numantine peace, and Caudinian capitulation. . .

II. The deliberative part consists of two duties, persuading and dissuading. It has no occasion for the formal exordium of the judicial, it being supposed that every man, who wants advice, is disposed to listen to it. Yet ought it to have some beginning, some resemblance to a sort of exordium; for we should not enter abruptly on the matter, nor be led away by our fancy, because in every subject there is always something naturally first. In the senate, and in the assemblies of the people, we behave as in a judicial cause, by endeavouring to acquire a favourable hearing; and this need be no subject of surprise, when even in panegyrics, where the proposed emolument does not consist in any utility, but merely in praise, we sue for the favourable attention of the assembly. † Aristotle, and not without reason, thinks that in imitation of the pleadings of the bar, the exordium in the deliberative kind, may contain a modest comparison of one's self with the orator, who is of a different sentiment; and that some-

\* Livy, l. ix. n. 5 and 6. See Cic l. iii. Offic. 109.

† Rhet. iii. c. 14.

times it may be conducted by exaggerating or diminishing the importance of the affair in deliberation. In demonstrative speeches he thinks the exordiums may take great latitudes; for they may treat of something quite foreign to the subject, as in the oration of Isocrates in praise of Helen, or may bear some resemblance to the subject, as in the same panegyric the same orator complains that the beauty of the body has more votaries than the beauty of the mind. Gorgias, in his Olympic, begins by praising those who instituted games so worthy of the emulation and concurrence of so great a number of people. Sallust followed their example, as appears by the prefaces of his Catilinarian and Jugurthine wars, which have no relation to his history. But to return to the deliberative kind; when we make use of an exordium for it, it should be but short, and rather an introduction, than properly an exordium.

A private deliberation will never require a narration, especially of the thing deliberated upon, because none are ignorant of what they come to consult about; but several circumstances, though immediately foreign to the deliberation, yet as serving to throw light upon it, may be related. In the assemblies of the people, a narration, setting forth the order of the affair, is often necessary; and it ought perhaps to be expressed in the most lively and \* affecting manner; as then is the time for rousing or checking the indignation of the people, or working upon their minds by motives

\* The Latin text has here various readings in manuscripts, whence it may be thought that this passage is perhaps faulty.

of fear, desire, hatred, or reconciliation. Sometimes also sentiments of pity must be made to take place in their heart, whether the design is to induce them to dispatch succours to a besieged place, or with them to weep over the destruction of an allied city.

In deliberations of this sort, the good opinion conceived of the orator is of great weight ; for he ought to be of consummate prudence, and stand unimpeached in character, who would have us entrust to him what we have most at heart, our honour and interest. In judicial harangues, an orator may in some measure indulge his own inclination ; but in giving advice, must ever be biased by the dictates of real truth and equity.

The generality of Greek \* authors were of opinion, that the deliberative kind belonged intirely to harangues made in the assemblies of the people, and therefore had no other object but the administration of the state. Cicero, for the most part, appears to be of the same opinion, and fancies, that in this kind, an orator has scarce any other topics to speak of, but peace, or war ; troops to raise and provide for ; works for the public good ; contributions and subsidies. He should therefore be acquainted with the resources of a state, its usages and manner of ordering matters, that from the very nature of the things, and the disposition of minds, his arguments might be more strong and persuasive. For my part, I think this affair may admit of greater variety, as

\* Arist. Rhet. i. c. 3.

there are many kinds of deliberations, and persons who deliberate.

III. Wherefore in persuading and dissuading three things ought to be particularly considered, "What it is that is deliberated upon; the person who consults; and the person who is consulted."

1. As to the thing deliberated upon, it is either certain that it is practicable, or not. If uncertain, the whole question will here rest, or the principal part of it. For it often happens, that we first prove, that though a thing be practicable, it ought not to be done; and secondly, that it is impracticable. A state of conjecture constitutes a question of the kind, as "Whether some isthmuses could be cut through; whether a harbour could be made at Ostia; whether Alexander should find lands beyond the ocean." Allowing also possibility, the state will be sometimes conjectural; as if the question should be, "Whether it is likely that the Romans will conquer Carthage; or, whether Annibal will pass out of Italy, if Scipio makes Africa the seat of war; or, whether the Samnites will keep to the faith of treaties, if the Romans lay down their arms." Some things are possible and practicable, and in all probability may happen, but at another time, in another place, and after another manner.

Where there is no room for conjecture, we may look to other particulars. First, an affair is deliberated upon, either on its own account, or on account of other intervening extrinsic causes. On its own account, as when the senators deliberated, "Whether they should make a fund for  
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the \* pay of the army, and other military expences." This deliberation will be simple. On account of other intervening extrinsic causes, which are of two sorts. First, by shewing reasons for doing a thing, as when the senate deliberated, "Whether the three Fabii should be delivered up to the Gauls, who, if they were not, threatened to declare war." Secondly, by shewing reasons for not doing a thing, as when Cæsar deliberated, "Whether he should continue his march into Germany, notwithstanding the consternation of his soldiers, who all made their wills, as promising themselves certain death." These subjects of deliberation contain two clauses: the first, because the Gauls threaten to declare war; but the question may be, whether waving the just resentment of the Gauls, it would not be proper to deliver up to them the three ambassadors, who, contrary to the law of nations, committed acts of hostility, by bringing on a battle, and killed the king, to whom they were deputed on the business of the republic. In the other deliberation, nothing occurs to deter Cæsar from his enterprize but the consternation of his soldiers; yet the question may be, whether regardless of this accident, he ought to penetrate into Germany. But in these deliberations, we should always begin with the principal question, which even abstracting from all incidental questions, may form a proper subject for deliberation.

Some are of opinion, that 'to persuade,' in-

\* See on this Livy, l. iv. n. 59 and 60. Of the Fabii, l. v. n. 36. Of the expedition into Germany. Cæsar, l. i. Bell. Gall.

cludes the three considerations of what is honest, useful, and necessary. I find no room for the third; for whatever violence is used, we may be forced perhaps to suffer something, but cannot be compelled to do a thing in spite of us, and it is upon doing we deliberate. Men are forced to what is called necessity through fear, but properly this is a question of utility: as for instance, an army besieges a place, and the garrison, weakened by frequent sallies, and a want of provisions, deliberate upon surrendering: a necessity of so doing, or of perishing is urged. Now, in this case there is no necessity, because there is a will of perishing rather than of surrendering, which we see in the example of the Saguntines, and in that of some of the people of \* Opitergium surrounded by the enemy's fleet. Therefore in such cases, the question will either regard utility alone, or will lie between what is useful and honest. But suppose a man's intention is to beget children, and that for this purpose he is under a necessity of marrying. Grant that he is; for whoever is willing to have children, cannot be ignorant of his being under a necessity of marrying. No deliberation therefore seems to me to include necessity, no more than a thing is practicable, where an impossibility occurs of putting it in execution; for every deliberation pre-supposes a doubt: so that I agree with those who call the third part "what is possible," instead of "what is necessary."

\* Opitergium is a town of Italy not far from Venice. Some of its inhabitants in the war between Cæsar and Pompey, were surrounded by the enemy in a naval engagement; but sooner than suffer themselves to be slaughtered by the enemy, they put each other to death. See Flor. Epit. l. cx.

It sufficiently appears without my intimating it, that these three motives do not always take place in every deliberation; though some, as if they were not sufficient, increase their number, and make a new division, which is only a subdivision of the first. For what is lawful, just, pious, equitable, clement, may be referred to what is honest, as a species to its genus. In like manner, what is easy, important, agreeable, without danger, belong to what is useful; and all these places arise from their opposites, as a thing indeed, tho' useful, may be difficult, inconsiderable, disagreeable, dangerous.

Some think, that things restricted to motives of pleasure, may sometimes be subjects of consultation; as, "Whether a theatre ought to be built," "Whether games ought to be instituted." For my part, I cannot imagine any man so addicted to the pursuits of luxurious life, as to propose no other end in a cause of persuasion than pleasure; so that it should always appear necessary to begin with some serious reflection; as, if games are to be instituted, they ought to be in honour of the gods: if a theatre is to be built, the design proposed by it, is a relaxation after labour by innocent amusement; if one should not be built, there would be a troublesome confusion of all ranks of people: having such an edifice might also be very interesting to the cause of religion, as being in the nature of a temple, resorted to for the solemnization of a sort of festival.

In many cases utility may be rejected, nay despised, to do what is honest, becoming, or noble; as when we counsel the Opitergini not to surrender

render themselves, though they will perish unless they do : and we postpone that which is becoming to utility, as when in the Punic war the arming of our slaves was advised. In neither of these cases the orator should expose things in their genuine colours. As to the slaves, he may say, that nature has made us all free, that we are all composed of the same materials, and that they are descended from perhaps as illustrious a stock as we are. As to the Opitergini, there being no practicable means to conceal from them the danger they are in, he may adopt other motives ; as, should they surrender themselves, they must expose themselves to a more cruel death, either from the treachery of the enemy, or if Cæsar conquered, which is more probable.

When two motives are opposite, they are made to square with each other, by substituting other names ; for utility is not held in any degree of estimation by those, who say that honesty is not only preferable to utility, but even that nothing is useful but what is honest ; and, on the contray, what we call honesty, glory, and honour, they term vanity, ambition, and folly ; a probability indeed, but more so in words than in reality. Sometimes things useful are compared with their opposites, and sometimes two useful or two hurtful things are compared with each other, that we may choose the more or the less in either. The difficulty may still increase from the intervening of three subjects of deliberation ; as when Pompey, after the battle of Pharsalia deliberated, whether he should go to the Parthians, or into Africa, or Egypt. Here-  
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in the question will be, not so much which is better, but what is best; or, on the contrary, which retreat is likely to be attended with most danger.

Neither in these subjects does the thing itself ever admit of doubt, being intirely in our power; for where there is no room left for contradiction, how can there be a cause for doubting? Therefore, almost every deliberation is properly a comparison. We should also have in view the end we propose to ourselves, and the means whereby we think to attain it, that we may be able to form a just estimate, whether they chime in with each other, or whether the means may not be attended with a greater inconveniency, than the end with advantage. Utility takes in likewise the consideration of time, place, person, the manner of acting, and the measure; as, it may be adviseable to do such a thing, but not now, nor in that place; neither should we be the acting parties, nor against such persons, nor so, nor to such an excess.

2. But in regard to the \* persons consulting, or consulted, a due decorum ought to be kept to; for though examples be of vast weight in counsels, because men are easily induced to give their assent to what has been already experienced; yet ought we to weigh well the authority of the examples proposed, and before whom, and for whom, they

\* He said a little before, that the question of utility belonged also to the person: as, that indeed is useful, but neither for us, nor against those. But, says he, we often consider the same person in point of decorum, that is, that we may see ourselves what is becoming us, and what is becoming those that deliberate.

are proposed. Minds are not all disposed the same way ; and they who deliberate, are many assembled together, or single persons ; but there is a difference in both. If many, it signifies much, whether it be the senate or people ; the Romans, or the Fidenates ; Greeks, or barbarians. If single persons, whether Cato, or Marius, ought to be a candidate for such honours ; whether Scipio, preferably to Fabius, should be consulted on the manner of conducting the war. Age, sex, and dignity, will also have their peculiar considerations ; but the greatest and nicest difficulty lies in the consideration of the party's moral character.

It is an easy matter to recommend what is virtuous to its votaries, but the perverse and corrupt will with difficulty be induced to relish a sollicitation of the kind. To gain an ascendant over their minds, we must avoid reproach, and not let them perceive the little esteem we have for them : They must be induced to good, not by the love of good, but by the desire of glory, the care of their reputation ; and, if this piece of vanity does not sufficiently flatter them, they must be made to think that their own advantage is intimately connected with the business ; or, what may be more effectual, they must be intimidated by fear, and the apprehension of the dismal consequences likely to ensue from their acting otherwise. For besides, that it is an easy matter to terrify base souls, I do not know, but that the dread of evil makes naturally a deeper impression on most men, than the hope of good things ; by the same reason that they sooner and easier come to the knowledge of vice, than of virtue.

Sometimes honest men are induced to engage in unseemly actions, and those of a doubtful character are counselled to seek nothing but their interest. I am not ignorant of what the reader will think on this occasion. Are these your instructions, says he, and do you fancy them right? I could justify myself on the authority of Cicero, who so writes to \* Brutus, many things having been proposed by him, which Cæsar could be honestly persuaded to pursue: "Should I be an honest man, if such was my advice? No; for every man, advising another, ought to look to nothing but the interest of him whom he advises. The contrary advice would be more honest, and is so undoubtedly; but it is a consideration we are not always obliged to regard." But, as this question requires to be more thoroughly examined into, and belongs not intirely to our present subject, we shall refer it to the twelfth Book, the last of this work. Still do I not pretend to encourage any thing of a base action, and so, till I explain myself, what has been said need not be practised but in school-exercises; for the artifice of imposition and injustice is necessary to be known, that we may be the better able to assert the cause of truth and justice.

However, if any one should undertake to persuade a good man to do what is dishonest, let him remember not to counsel it as such, as some declaimers do, who would have Sextus Pompey turn pyrate, for no other reason than because it is a cruel and infamous profession. But all criminal designs should be glossed over with something spe-

\* This epistle is not extant.

cious, even in an intercourse with the vicious, none being so bad as to pride themselves in passing for such. Thus Cataline in Sallust strives to insinuate that he is not urged to his wicked purpose through malice, but by a just indignation. And thus Atreus in Varius's tragedy of *Thyestes*, cries out :

‘ Jam fero infandissima, jam facere cogor.’

‘ Injur’d I am, and by cruel treatment ; —  
 Mine heart-felt anguish prompts me to revenge : —  
 It must be so . . . I’ll make a like return.’

By how much the more ought we not artfully to practise on the minds of those who are sensible of honour ? If we counsel Cicero to have recourse to the clemency of Mark Antony, even by burning his Philippics, the assigned condition for obtaining pardon, we must not insist upon the love of life, a consideration that will affect him, though we are silent ; but we may, with great propriety, exhort him to preserve his days for the good of the republic ; and this pretext will be necessary to prevent his shame of such intreaties. Cæsar deliberates on assuming the title and power of a king : he must be told that the commonwealth cannot subsist but by the rule of one master ; for whoever deliberates on carrying into execution a wicked act, seeks only a plausible pretext to appear the delinquent as little as possible.

3. The character of the adviser is also of singular importance ; because past life, if illustrious, or noble extraction, or respectable age, or fortune, raises expectation on these occasions ; and nothing of the things said must be inconsistent with his

character. But the \* reverse of such characters requires a more humble manner, as the liberty of speech assumed by the former, would pass for impudence and temerity in the latter. And indeed, authority is fully sufficient for some, whilst others can scarce recommend themselves by all the force of reason.

IV. On this account †, *profopopeias* seem to me to be extremely difficult, in which, besides observing the rules prescribed for deliberative discourses, the character of the party must be strictly adhered to. To introduce, Cæsar, Cicero, and Cato, deliberating on the same affair, each must be made to express his peculiar sentiments. This exercise is very useful, either by forming declaimers for executing two duties incumbent on them, or by being of singular service to those who apply themselves to poetry and history. It is likewise necessary for Orators, as may appear from the many speeches, both Greek and Latin, which have been composed for the use of others, and in which there was a necessity of supporting the character and condition of the parties. Did ‡ Cicero, writing for Pompey, for Appius, and others, think but one way, or personate but one? Had he not an intuitive view of the peculiar cir-

\* As youth, a small fortune, obscurity of birth, a life not blameless.

† By *profopopeias* he means here declamations, in which we introduce some person deliberating, and different characters are assumed. He says, that (*duplex opera*) two particular duties are to be observed in them; the necessity of persuading, and keeping up to the character of the person.

‡ Cicero sometimes wrote orations for the noble Romans, which they committed to memory, and pronounced in the senate, or in the assemblies of the people.

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cumstances of the fortune, dignity, and exploits of all those, to whom he gave his voice; and were not his words expressive of their image in all its genuine colours? Thus it was they spoke better, and yet seemed to speak themselves; for a speech is not less faulty for disagreeing with the person who delivers it, than it is with the subject it ought to treat of; and for this reason it is that Lysias is much admired for having preserved so great an air of truth and simplicity in the discourses he wrote for illiterate persons.

It belongs particularly to declaimers to study these fitnesses; for though they seldom speak as \* advocates, there is scarce a character but they may assume. Sometimes you will see them in that of a father, sometimes in that of a son; other times representing the rich man, the old man, the ill-humoured man, the wit, the miser, the hypocrite, the coward, the jester. An actor on the stage cannot appear in so many different parts; and all may seem *profopopeias*, which I include in deliberative harangues, as differing from them in no other respect than the reality of person. . .

V. Most declaimers are guilty of many errors in regard to deliberative speeches, presuming that they are intirely different from those of the judicial kind, and that the style also is different. Hence proceed their abrupt exordiums, a conti-

\* In scholastic declamations they acted, not as advocates, or counsel, but as parties: sons, fathers, &c. Therefore *profopopeias* differ in no other respect from deliberative speeches than in the person: because in the deliberative speech we persuade in person; and do the same in the *profopopeia* in that of another.

nued precipitation in the discourse, an effusion of frothy words, and always by far a shorter \* essay than is used in judicial matters.

For my part, as I think, for the reasons before alledged, that deliberations want not exordiums in form ; so, I do not understand why the beginning should be vented in a strain of madness. On the contrary, I believe that a man of good sense, who is desired to give his advice, far from assuming so † clamorous a tone of voice, would rather choose by a polite and modest introduction to gain the good will of the persons before whom he is to speak.

Where is the necessity for such a torrent and rapidity of speaking in a matter, that requires the greatest moderation and prudence ? I know that very often in pleadings the vehemence of the Orator is not ‡ exerted in the exordium, narration, and arguments ; and if you except this vehemence, the manner will much resemble that of

\* They thought the speeches should be much shorter in the deliberative, than in the judicial kind.

† *Quiritare* in the text is applicable to him, who in an obstreperous manner implores the protection of the *Quirites* or Romans.

‡ I confess that in the judicial kind *the vehemence of speaking often subsides*, is lessened, moderated, that is, there is a less earnestness of speaking in the *exordium*, which is mild ; in the *narration*, which is clear and fluent ; in the *confirmation*, which ought to be argumentative. *Which vehemence if you take from the judicial kind, there will remain in it mostly what deliberative speeches consist of.* That is, there will remain indeed, that grave but not impetuous discourse ; and such also the deliberative kind requires. But this force and energy that remain, when the vehemence does not take place, will flow equally like a rapid river within its banks, but will not rush here and there like *the impetuous spreading of a turbid torrent.*

deliberations.

deliberations. But this too ought to proceed in a more even pace, and not with the tumultuous rage of a turbid torrent.

The magnificence of words, which naturally flows from the subject, ought not to be conceived in too fullsome a strain of affectation, as we see by declaimers, who generally make choice of speeches, supposed to be pronounced by kings and princes; or speeches made to the senate or people, and a variety of such grand subjects. When words are with propriety adapted to things, they will of course borrow an additional lustre from the importance of the matter. But real deliberations are otherwise conducted. Theophrastus makes simplicity their greatest ornament, and affectation the reverse; in this following the authority of his master, though sometimes he makes no scruple to dissent from him. For Aristotle thinks that the most proper for shew is the demonstrative kind, and next to it the judicial; the first being intirely calculated for ostentation, and the second standing in need of art, where it is necessary to throw minds into deception, if utility would have it so; but that the deliberative requires only prudence and sincerity. I allow what he says touching the demonstrative kind; and all other authors agree in this point: but in deliberations and judgments, I think the best way is to suit the elocution to the nature of the subject. We see that Demosthenes's Philippics are as remarkable for beauties as his pleadings. Cicero is equally eloquent, whether he \* accuses, defends, or deliberates on the af-

\* In the text *sententiæ*, accusations, invectives, impeachments, and deliberations, as those spoke in the senate, against Antony

fairs of the republic; and in regard to the deliberative kind, himself observes, that it \* ought to be conceived with simplicity and dignity, and rather indebted for its merit to judicious reflections than the pomp of words." All allow that no other subject has a greater occasion for the use of examples, that futurity may seem to tally with what is past, and experience be held as a certain testimony of reason.

The † length or shortness of a speech, consists not in the kind of matter, but in the manner that is required for treating it; for as most commonly in deliberations the question is more simple, so in causes it is often of less extent.

Whatever has been said will be found true, if instead of poring a whole life away on treatises of rhetoric, one did rather read orations, or such histories as are interspersed with fine speeches, calculated for persuading or dissuading an enterprize. In the deliberations we shall meet with no abrupt exordiums, and often in the pleadings a more spirited diction; the elocution always in both proportionate to the matter, and sometimes deliberations of a greater length than judicial causes.

In these none of the faults will be found some declaimers give into, who pass to bitter invectives against those that differ from them in opinion, and

Antony and Cataline. *Conciones*, speeches made to the people, as for the Manilian law, against Rullus, &c.

\* In Partit. n. 97.

† The length or shortness of a speech does not depend on the kind, whether it be demonstrative, deliberative, or judicial; but on a certain measure, and certain way of treating it, suitable to the matter.

never

never seem to approve any thing proposed by the parties consulting them; thus behaving more like indiscreet wranglers, than persons offering counsel. Young gentlemen, however, may know, that what is here laid down and inculcated, is on their account, that their time may not be mispent on a manner of haranguing, which they must sooner or later be disused to. When hereafter they may be applied to for advising their friends, for giving their opinion in the senate, or for counselling the prince, their own experience will then teach them, what perhaps they now refuse believing on the faith of precepts.

## C H A P. IX.

*Of the judicial kind.*

- I. *That there are in it five parts for an oration, consisting of an exordium, narration, proof, refutation, and peroration.* II. *In these parts, not as each is first to be spoken, so is it first to be thought of.*

I Shall now speak of the judicial kind, which, though of all the most extensive and various, consists but of two offices, accusation and defence. Its parts, according to most authors, are five, exordium, narration, proof, refutation, and peroration. To these some have added division, proposition, and digression; but the two first are included in the proof. . . As to digression, if it be foreign to the cause, it cannot make a part of it; if it belongs to the cause, it may serve as a help  
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or ornament to the parts from which it digresses. But if every thing, in a cause, ought to be called part of it, why should not also argument, similitude, common place, passions, examples, be likewise called parts? Neither do I agree with those, as Aristotle, who exclude refutation as included in proof; for the one establishes, and the other destroys, which are different things. The same author differs also from us in opinion, by placing after the exordium, not narration but proposition. . .

II. But I do not pretend, that the Orator must think of every one of these \* parts, in the same order that he is to speak them. His principal care should be to examine into the nature of the cause he undertakes; to know the state of the question; what makes for and against it; what he is to prove and what to refute: next, how he must order his narration, for the exposition of it is a preparative to his proofs; neither can it be of service, unless it first appears what he may promise himself from his proofs. Lastly, he must consider the means of procuring the favour of the judges, as it must be from a diligent inspection into all parts of the cause, that he will be able to know the disposition of mind they ought to be in, as gentle or severe, passionate or cool, inflexible or tractable, for deciding in his favour.

I cannot likewise side with those, who think the exordium should be the last thing written. For, as it is necessary to get together all materials, and see how they ought to be disposed, be-

\* See Cic. l. ii. de Orat. 315.

fore we set about writing or speaking; so ought we to begin with what naturally occurs first. A painter or sculptor do not begin with the feet in a portrait, or statue; neither does any art consummate a work, where it must begin. And what shall an Orator do, if he has not time enough to compose intirely his discourse? Will he not find himself under an illusion in abiding by so prepotterous a custom? He must therefore consider his matter in the order we have prescribed, and write it down in the order of delivering it. \* .

## B O O K IV.

## P R E F A C E.

*He flatters Domitian, who had committed to his care the education of his sister's grand-children; and next proposes what he intends to treat of in the three following books.*

**N**O sooner had I finished, Marcellus Victorius, the third book of the work I dedicated to you, which almost completed the fourth part of my labour; but I found myself engaged in new cares, and possessed with a more anxious desire of perfecting what I undertook, as being under an obligation of submitting it to the judgment of the public. At first, these studies were confined to ourselves, and regardless of approbation from others, we seemed to content ourselves with their domestic use, presuming it would add much to our happiness, if they proved conducive to the instruction of your son and mine. But now Domitian Augustus, having entrusted me with the education of his sister's \* grand-children,

\* Domitilla, sister to Domitian, had a daughter, by name Flavia Domitilla, married to Flavius Clemens, a kinsman of Domitian, by whom she had two sons, the care of whose education was entrusted to Quintilian; and thus they were properly Domitian's grand-nephews, and not his nephews by his sister, as some think.

I should

I should not make a true estimate of this \* heavenly approbation, unless I by it measured the grandeur of my enterprize. In what light soever I place it before my eyes, whether relatively to morals, whether to sciences, what ought I not to do for meriting the esteem of so upright a censor, so good and gracious a prince, not less distinguished by eloquence, than a thousand other great qualities which adorn his life. If it be not a matter of surprize to see the most excellent poets, not only invoke the Muses in the beginning of their work; but also in the sequel, when they enter upon any passage of importance, to renew their vows and supplications; ought I not by a much better reason be indulged, if what I omitted in the beginning of this work, I should now perform, by calling to my assistance all the gods, and him in a particular manner, than whom there is not a more propitious deity, presiding over sciences and study. May he then vouchsafe to be favourable to me; may he proportion his goodness to the elevated idea he has been pleased to form to himself, by choosing me for so glorious an employment, and so difficult to be worthily discharged; and may he inspire me with all the genius I have occasion for, and make me such as he believed me to be!

These are not the only reasons, though the most considerable, which have determined me to address him: there are others, grounded on the difficulty of the ensuing work; which, according as it pro-

\* The honour of the judgment which the god Domitian formed of me: an impious piece of flattery! He praises him, as an upright censor, nay as a god, whom notwithstanding all abhorred for his abominable lusts,

—*Monstrum nulla a virtute redemptum.* Juv.

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*He flatters Domitian, who had committed to his care the education of his sister's grand-children; and next proposes what he intends to treat of in the three following books.*

N O sooner had I finished, Marcellus Victorius, the third book of the work I dedicated to you, which almost completed the fourth part of my labour; but I found myself engaged in new cares, and possessed with a more anxious desire of perfecting what I undertook, as being under an obligation of submitting it to the judgment of the public. At first, these studies were confined to ourselves, and regardless of approbation from others, we seemed to content ourselves with their domestic use, presuming it would add much to our happiness, if they proved conducive to the instruction of your son and mine. But now Domitian Augustus, having entrusted me with the education of his sister's \* grand-children,

\* Domitilla, sister to Domitian, had a daughter, by name Flavia Domitilla, married to Flavius Clemens, a kinsman of Domitian, by whom she had two sons, the care of whose education was entrusted to Quintilian; and thus they were properly Domitian's grand-nephews, and not his nephews by his sister, as some think.

I should

I should not make a true estimate of this \* heavenly approbation, unless I by it measured the grandeur of my enterprize. In what light soever I place it before my eyes, whether relatively to morals, whether to sciences, what ought I not to do for meriting the esteem of so upright a censor, so good and gracious a prince, not less distinguished by eloquence, than a thousand other great qualities which adorn his life. If it be not a matter of surprize to see the most excellent poets, not only invoke the Muses in the beginning of their work; but also in the sequel, when they enter upon any passage of importance, to renew their vows and supplications; ought I not by a much better reason be indulged, if what I omitted in the beginning of this work, I should now perform, by calling to my assistance all the gods, and him in a particular manner, than whom there is not a more propitious deity, presiding over sciences and study. May he then vouchsafe to be favourable to me; may he proportion his goodness to the elevated idea he has been pleased to form to himself, by choosing me for so glorious an employment, and so difficult to be worthily discharged; and may he inspire me with all the genius I have occasion for, and make me such as he believed me to be!

These are not the only reasons, though the most considerable, which have determined me to address him: there are others, grounded on the difficulty of the ensuing work; which, according as it pro-

\* The honour of the judgment which the god Domitian formed of me: an impious piece of flattery! He praises him, as an upright censor, nay as a god, whom notwithstanding all abhorred for his abominable lusts,

—*Monstrum nulla a virtute redemptum.* Juv.

ceeds, becomes more important and difficult. For now I must explain the order of judicial causes, which are manifold, and contain matter of much variety: I must consider the properties of the exordium; the manner of narration; the force and authority of proofs, by confirming what is advanced, or refuting what is objected; the great power and influence of the peroration, whether by a short recapitulation the memory of the judges is to be refreshed; or whether the passions are to be moved, which is much more efficacious. Some authors chose to write only on a single part, apprehensive of the burden of the whole; and a good many have written whole volumes on each part. I, who presumed to bring them all into one body, now find that I have charged myself with an immense labour, and am even somewhat dismayed by the thoughts of what I have undertaken. But I must continue because I began, and though strength might fail me, I must spirit myself up with courage and resolution.

## C H A P. I.

*Of the Exordium.*

- I. *That it is with more propriety called by the Greeks proœmium.—That it is used for procuring benevolence, attention, and docility.* II. *Of benevolence. That it is acquired three different ways; either from the persons, which are five. 1. The pleader of the cause. 2. The advocate of the adverse party. 3. The plaintiff. 4. The defendant. 5. The judge.—Or from the causes.—Or from adjuncts to the causes or persons.* III. *Of attention.* IV. *Of docility.* V. *That these three are differently employed according to the difference of the five kinds of causes.* VI. *When and how insinuation is to be adopted, which is a second species of exordium.* VII. *How the exordium may be easily performed.—That it is properly deduced from the action of the adverse party.—That modesty becomes it.—That the suspicion of art is to be avoided, and the boldness of words.* VIII. *What style, manner, and figures suit the exordium. . . . What are its principal faults.* IX. *That there is not always an occasion for an exordium; and that it takes place also in other parts.* X. *Of transition from the exordium to the ensuing part.*

I. **W**HAT the Latins call \* exordium, the Greeks express by the more significant term of † προοίμιον, which sufficiently denotes the

\* On the exordium, see Cic. Rhet. i. 6—11. l. i. de Invent. 20—26. l. ii. de Orat. 315. 325.

† Of οἶκον, cantus, or οἶκος, via.

part of the discourse that is pronounced before the subject is entered upon. For whether they have borrowed the term from music, as musicians make a prelude for obtaining silence and attention before they play their pieces; so orators, before they begin the cause, have specified by the same appellation, what they say by way of preface, for procuring towards them a benevolent disposition in the judges: or, whether, as the same Greeks call *οἶμον*, an introduction to a thing; so orators may have taken the word in the same sense, understanding by it that part which is necessary to acquire the favour of the judge, before he receives any information of the cause. . .

The reason for an exordium can be no other, than to dispose the auditory to be favourable to us in the other parts of the discourse. This, as most authors agree, is accomplished by making them benevolent, attentive, and docile; not but that a due regard should be paid to these three particulars during the whole of the action; but in the exordium they are of singular moment, as by it we so far gain an ascendant over the mind of the judge, as to be able to proceed farther.

II. Benevolence is procured, either from reflections made on the nature of causes, or the conditions of persons. But the persons are not reducible to three only, as generally believed, consisting of the plaintiff, defendant, and judge.

I. For sometimes the exordium is applicable to the pleader of the cause; who, though he ought to speak very little of himself, and always modestly, will find it of vast consequence to create a good opinion of himself, and to make himself reputed  
the

the honest man. So it is he will be regarded, not so much the zealous advocate, as a faithful and irreproachable witness. His motives for pleading must therefore appear to proceed from tie of kindred, or friendship; and principally from a desire to promote the public good, if such motive can be urged, or any other important consideration. This conduct will become plaintiffs in a much greater degree, that they may seem to have brought their action for just and weighty reasons, or were even compelled to it by necessity.

But, as nothing gives so great a sanction to the authority of the speaker, as to be free from all suspicion of avarice, hatred, and ambition; so also, there is a sort of tacit recommendation of ourselves, if we profess our weak state and inability for contending with the superior genius and talents of the advocate of the adverse party. Most of Messala's exordiums are in this strain. And, indeed, we are naturally disposed to favour the weak and oppressed; and a conscientious judge hears willingly an orator, whom he presumes not to be capable of making him swerve from his fixed purpose of doing justice. Hence the care of the ancients for concealing their talents, so different from the vanity of the orators of our times.

All contumelious, spiteful, haughty, calumniating expressions must be avoided, and not so much as even insinuated to the defamation of any particular person or rank, much less against those, to whom an affront offered would alienate the minds of the judges. To be so imprudent as to attack the judges themselves, I say not openly,

but in any indirect manner, would be a folly in me to animadvert on, did it not happen.

2. The advocate for the adverse party may likewise furnish sufficient matter for an exordium. Sometimes honourable mention may be made of him, as when we pretend to be in dread of his interest and eloquence, to render them suspected by the judges; and sometimes by casting an odium on him, but this must be done but very seldom, as *Asinius* pleading for *Urbinius's* heirs against *Labienus*, observes, that the cause of the adverse party cannot be very good, because *Labienus* defends it.

*Cornelius Celfus* says, that these are not exordiums, as being foreign to the cause. But I rather think, from the authority of the best authors, that whatever affects the orator, affects also the cause he patronizes, as it is natural for a judge to give more credit to those, whom he more willingly hears.

3. The person of the plaintiff is variously considered: for either his dignity is alledged, or his distress and inabilities are represented in a light that may excite commiseration towards him: sometimes a recital of his services may take place, which will have a better effect from another than himself. Sex, age, condition, are likewise very prevailing considerations; as women, pleading for their husbands; old men for their children; orphans claiming the substance of their parents. Compassion alone gains upon the most upright judge. Such considerations, however, should be but slightly touched on in the exordium, and not exhausted.

4. The

4. The person of the adversary or defendant, is attacked on nearly the same considerations, but the deductions have a contrary tendency. For envy attends on the powerful, contempt is the portion of the vile and abject, and hatred of the infamous and criminal: all which are very efficacious means to alienate the minds of the judges. Still it is not sufficient barely to alledge them, which the ignorant may do as well as the learned; but they are to be exaggerated or diminished, as it may seem expedient. This is the business of the orator, the other point regards the cause.

5. We shall procure the favour of the judge, not so much by praising him, which ought to be done with moderation, and is common to both parties, but rather by making his praise fall in, and connecting it with the interest of our cause. Thus, in speaking for a person of consequence, we may lay some stress on the judge's own dignity; for one of mean condition, on his justice; for the unhappy, on his mercy; for the injured, on his severity, and the like.

It would not be amiss also, if possible, to become acquainted with his character. For according as his temper is harsh or mild, pleasant or grave, severe or easy, the cause should be made to slide on the side which tallies with his humours; or to admit some mitigation or softening on that, where it runs counter to them.

It may happen too sometimes, that the judge is our enemy, or the adversary's friend. This is a circumstance requiring the circumspection of both parties; yet I think, the favoured party should behave with great caution: for a judge of

a biased disposition will sometimes affect to pass sentence against his friends, or in favour of those to whom he bears enmity, that he may not appear to act with injustice.

Some have been judges in their own cause. For in the books of observations published by Septimius, I find that \* Cicero had acted in such; and I myself pleaded for queen † Berenice, before herself, as judge. Here not less precaution is required than in the preceding case; for the ‡ adversary boasts the right and confidence of his party, and he, who pleads for his judge, is apprehensive of making his modesty and delicacy suffer.

Judges have also their private opinions and prejudices, which we must either strengthen or weaken, according as we see necessary. Fear too must be sometimes removed, as Cicero, in his defence of Milo, endeavours to assure the judges that Pompey's army, drawn up about the Forum, is for their protection; and sometimes there will be an occasion to intimidate them, as the same orator does in § one of his pleadings against Verres.

There are two ways of proceeding in this last

\* He pleaded for Marcellus, Dejotarus, and Ligarius, before Cæsar, who was judge in these causes, which were his own.

† This Berenice was wife of Ptolemy king of Egypt, daughter of Herod, king of Judea, sister of Agrippa, and beloved by Titus, Domitian's brother.

‡ The orator, who pleads against the judge, boasts the confidence of his party, who fears nothing from the judge, tho' his adversary and judge: whereas the advocate for the judge is obliged to signify his fears, lest through a misguided shame, he should give sentence against himself, though his cause is good.

§ Verr. ii. in the whole speech, and particularly in n. 36. 50.

case; the first plausible, and frequently used, as when it is hinted to them, that the Roman people might entertain an ill opinion of them, or that there might be an appeal from their judgment: the other desperate, and not so much used, as when threatened with prosecution themselves, if they suffer themselves to be corrupted. This is a hazardous point, and is conducted with more safety to the orator, in a large assembly, where corrupt judges are restrained by fear, and the upright have the majority: but I would never counsel this before a single judge, unless every other resource was wanting: if necessity requires it, I cannot say that it is the business of the art of oratory to give directions in the matter, no more than to lodge an appeal, though that too is often of service, or to cite the judge in justice before he passes sentence; for to threaten, denounce, or indict, may be done by any one as well as the orator.

If the cause itself should furnish sufficient matter for gaining the good will of the judge, out of this whatever is most specious and favourable may be inserted in the exordium. . . It will be unnecessary to enumerate all the favourable circumstances in causes, being easily known from the state of facts; besides, no exact enumeration can take place, upon account of the great diversity of law-suits: it is therefore the cause itself that must teach us to find out and improve these circumstances; and, in like manner, a circumstance that may make against us, the cause will inform us how it may either be intirely made void, or at least invalidated.

From the cause also compassion sometimes arises, whether we have already suffered, or are likely to suffer any thing grievous. For I am not of the opinion of those, who to distinguish the exordium from the peroration, will have the one to speak of what is past, and the other of what is to come. They are sufficiently distinguished without this discrimination. In the exordium, the orator ought to be more reserved, and ought only to throw out some hints of the sentiments of compassion he designs to excite in the minds of the judges; whereas in the peroration, he may pour out all the passions, introduce persons speaking, and make the dead to come forth, as it were, out of their graves, and recommend unto the judges the care of their \* dearest pledges. All these particulars are seldom executed in the exordium. But the manner, just pointed out, it will be very proper to observe in it, and to wear down all impressions to the contrary, made by the adverse party; that as our situation will be deplorable, if we should be defeated in our expectations; so, on the other hand, the behaviour of our adversaries would be insolent and haughty.

Besides persons and causes, the exordium likewise is sometimes deduced from their adjuncts, that is, from things relating to the cause and persons. To persons are applicable not only the pledges abovementioned, but affinities, friendships, sometimes cities and whole countries are also likely to suffer by the party's misfortunes. To the cause are annexed time, whence the exordium for

\* Their wives, children, &c.

Cœlius; place, as that for Dejotarus; \* manner, as that for Milo; opinion, as against Verres; to which, in short, may be added, the reputation of judgments, and the expectation of the public. Nothing of all these exists in the cause, yet do they belong to it.

Theophrastus adds another sort of exordium, taken from the pleading of the orator who spoke first. Such seems to be that of Demosthenes for Ctesiphon, in which he requests the judges, they would please to permit him to reply as he thought convenient, and not to follow the rules prescribed by the accuser.

As the confidence, observable in some orators, may easily pass for arrogance, there are certain ways of behaviour, which, though common, will please, and therefore ought not to be neglected, to prevent their being used by the adverse party: these are wishing, warding off suspicion, supplicating, and making a shew of trouble and anxiety.

III. The judge is made attentive, by inducing him to believe that the matter in debate is new, important, extraordinary; or of a heinous and crying nature; or that it equally interests him and the public: and then his mind is to be roused and agitated by hope, fear, remonstrances, intreaties, and even by flattery, if thought to be of any use. Another way of procuring attention may be to promise, that we shall take up but little of their time, as we shall confine ourselves to the subject.

\* New form of a new trial or judgment, *novi judicii nova forma*.

IV. Attention undoubtedly will make him docile, but this may be improved by briefly and clearly stating to him the affair in question. Homer and Virgil have done so in the beginning of their poems. But this state of the question should be rather more like a proposition than exposition, shewing, not how every thing has been transacted, but precisely the subject of the pleading. We cannot have a better example in this respect than that of Cicero in his oration for Cluentius: "I have remarked, good sirs, that the whole of the accuser's discourse is divided into two parts; in one of which he seems to lay the greatest stress on the inveterate odium that has attended the judgment pronounced by Junius: in the other, through custom only, but with great timidity and diffidence, he touches on the charge of poisoning, though this is properly the question, and the fact in debate." This example, however, suits better the respondent than the proposer, as here the judge is only to be put in mind of the matter, and there he requires a proper information, the thing being new to him.

I cannot think with several great authors, that on some occasions it is not advisable to make the judge docile and attentive; because in a bad cause, it might not be so proper to give him an insight into the matter. But this happens less through the inattention of the judge, than the error he is led into. The adversary has already spoke, and perhaps has persuaded. We want to make the judge alter his opinion, which we shall not be able to effect, but by making him docile and attentive to what we say. I grant that some things

things ought to be palliated, extenuated, and even made slight of, to draw off, if possible, the retrospect of the judge to the reasons of the adverse party. Thus Cicero behaved in his pleading for Ligarius; for what other was the intent of that irony, unless to persuade Cæsar, that the fact was not so singular, nor so deserving of his attention? And for Cælius, what was his design, but to shew, that the matter came short of their expectation?

V. From what has been said it appears, that different causes require to be directed by different precepts; and five \* kinds of causes are generally assigned, said to be, either honest, base, doubtful, extraordinary, or obscure. Some add shameful, as a sixth kind, which others subject to base or extraordinary. By extraordinary is understood what is contrary to the opinion of men. In a doubtful cause the judge should be made favourable; in an obscure, docile; in a base, attentive: an honest cause is sufficient of itself to procure favour. Extraordinary and base causes want remedies.

VI. Some therefore distinguish two sorts of exordiums, the one a beginning, the other an † insinuation. In the first, the judges are requested openly to grant their benevolence and attention; but as this cannot take place in the base kind of cause, the insinuation must steal in upon minds, especially when the cause does not seem to appear

\* Of the kinds of causes, see Cicero, l. i. Rhet. 5. l. i. de Invent. 20, 21.

† Of the insinuation, see Cicero, Rhet. i. 9. 11. l. i. de Invent. 23, 25.

with a sufficiently honest aspect, either that the thing itself is wicked, or is a measure not approved by the public. There are many instances of \* causes of unseemly appearance, as when a general odium is incurred by opposing a patriot; and a like disaffection ensues from acting against a father, a wretched old man, the blind, or the orphan.

Some laboured hard by long disquisitions to find remedies for these inconveniencies; and having feigned subjects, discussed them as pleadings at the bar: but as such actions arise from real causes, it would be next to an impossibility to investigate all their species, and therefore all should be comprehended under the same general precepts, and every one allowed to consult with himself what is best to be done in them.

This may be a general precept for the purpose, "to touch but slightly on the things that make against us, and to insist chiefly on those that are for our advantage." If the cause cannot be so well maintained, let us have recourse to the goodness of the person; and if the person is not commendable, let us ground our support on the cause. If nothing occurs to help us out, let us see what may hurt the adversary. For, as to obtain more favour, is a thing to be wished for, so the next step to it is, to incur less hatred. In things that cannot be denied, we must endeavour to shew that they are greatly short of what they are reported to be, or

\* Here two parts may be distinguished. If one should act against a patriot or father, the face and presence of both would greatly alienate minds from the plaintiff. Also if one should act against a poor old man, the blind, or an infant, their condition or age must make him very odious to the judges.

that

that they have been done with a different intention, or that they do not in any wise belong to the present question, or that repentance will make sufficient amends for them, or that they have already received a proportionate punishment. Herein therefore it will be better and more convenient for an advocate to act than the party himself; because pleading for another, he can praise without the imputation of arrogance, and sometimes can even reprove with advantage. He may sometimes also pretend to be deeply affected himself, as Cicero does, pleading for Rabirius Posthumus, in order to insinuate himself the more artfully into the minds of his judges, and to assume the authority of a man who thinks and speaks with truth, that the same good opinion may be had of his veracity, when in the sequel he proceeds to justify the same things or flatly denies them. . .

The insinuation seems to be not less necessary, when the adversary's action has prepossessed the minds of the judges, or when they have been fatigued by the tediousness of the pleading. The first may be got the better of, by promising substantial proofs on our side, and by refuting those of the adversary. The second, by giving hopes of being brief, and by having recourse to the means prescribed for making the judge attentive. In the last case too, some seasonable pleasantries, or any thing witty to recreate the mind, will have a good effect. It will not likewise be amiss to obviate any seeming obstruction, as Cicero says, "he is not ignorant that some will find it strange, that he, who for so many years had defended such a number of persons, and had given no offence to  
any

any one, should undertake to \*accuse Verres." Afterwards he shews, that if on one side he accuses Verres, on the other he defends the allies of the Roman people. Which figure is called *Prolepsis*. . .

VII. But as it is not enough to point out to the learner the essentials for constituting an *exordium*, unless also he is informed how it may be properly executed; I make this addition, that the orator may consider what the affair is he is to speak of, before whom, for whom, against whom, at what time, in what place, in what situation of things, what the public think of it, what the judges may think of it before they hear him, and what he himself has to desire, and what to be apprehensive of. Whoever makes these reflections, will know where he should naturally begin. But now orators call *exordium* whatever they begin by, and repute it to the purpose to form the onset by some brilliant thought. Undoubtedly, many things are taken into the *exordium*, drawn from other parts of the cause, or at least common to them; but nothing in either respect is better said, than that which cannot be said so well elsewhere.

There are many very engaging charms in an *exordium* that is taken from the adversary's pleading; and this happens, because it does not seem to favour of the closet, but is produced on the spot, and occurs from the very thing. By its easy, natural turn, it enhances the reputation of genius. Its air of simplicity, the judge not be-

\* Verr. i. n. 1.

ing on his guard against it, begets belief; and though the discourse in all other parts be elaborate, and written with great accuracy, it will for the most part seem as an extempore harangue, the exordium evidently appearing to have nothing premeditated.

But nothing will so well suit an exordium, as a modesty in the countenance, and voice, and thoughts, and composition; so that even in an uncontrovertible kind of cause, too great a confidence ought not to display itself. Security is always odious in a pleader, and a judge, who is sensible of his authority, tacitly requires respect.

An orator must likewise be exceeding careful to keep himself from being suspected, particularly in that part; and therefore not the least shew of study should be made, because all his art will seem exerted against the judge, and not to shew it, will be the greatest perfection of art. This precept was recommended by all authors, and undoubtedly with good reason, but is sometimes altered by circumstances of times; because now in certain causes, and especially in capital, pleaded before the \* Centumviri, the judges themselves require studied discourses, and fancy themselves thought mean of,

\* Tacitus reckons this amongst the causes of corrupt eloquence. Formerly orators did not please in the exordium, but only made a sort of preface or introduction. In Quintilian's time, the judges, not satisfied to learn what belonged to the cause, thought themselves despised unless they were amused with flourishes of eloquence. As to what he says of the Centumviri, in former times they took cognisance only of private causes and of little consequence; but in his time they were divided into four classes, and perhaps these four classes assembled to judge public and capital causes. Perhaps also, instead of Centumviri, we ought to read Triumviri.

unless

unless accuracy appears in thought and expression. It is of no significancy to instruct them; they must be pleased. It is indeed difficult to find a medium in this point, but it may be so tempered, as to speak with justness, and not with too great a shew of art.

Another precept inculcated by the ancients, is not to admit into the exordium, any strange word, too bold a metaphor, obsolete expression, or of a poetical turn. As yet, we are not favourably received by the auditory; their attention is still new; but when once they conceive an esteem, and are warmly inclined towards us, then is the time to hazard this liberty, especially when we enter upon parts, the natural fertility of which does not suffer the liberty of an expression to be noticed amidst the lustre spread about it.

VIII. The style of the exordium ought not to be like that of arguments, common places, and the narration; neither ought it to be finely spun out, or harmonized into periodical cadences; but rather simple and natural, promising neither too much by words, nor countenance. A modest action also, devoid of the least suspicion of ostentation, will better insinuate itself into the mind of the auditor. But these ought to be regulated according to the sentiments we would have the judges imbibe from us.

It must, however, be remembered, that no where less allowances are made than here, for failing in memory, or appearing destitute of the power of articulating many words together. An ill pronounced exordium may well be compared to a visage full of scars; and certainly he must be  
a bad

a bad pilot, who endangers the sinking of his ship, as he is going out of port.

In regard to the extent of the exordium, it ought to be proportionate to the nature of the cause. Simple causes admit of a shorter exordium; the complex, doubtful, and odious, require a longer. Some have prescribed four points, as laws for all exordiums, which is ridiculous. An immoderate length in it should be equally avoided, lest, as some monsters, it appear bigger in the head than the rest of the body, and create disgust where it ought only to prepare.

Some find fault with an apostrophe in the exordium, and will have no other persons addressed but the judges. I grant that this is not without reason, it being natural to speak to those chiefly, whom we wish to have our cause at heart. But a spirited manner is sometimes necessary in the exordium, and then this figure will have a good effect. If so, by what right, or great scruple are we forbid its use? It is true, the writers on arts forbid it, not because it is not allowed, but because they think it useless. But if utility should recommend it, in consequence of the same reasons that forbid it, we ought to believe it to be very proper. Does not Demosthenes address himself to Æschines in an \* exordium? Does not Cicero do the same wherever he thinks proper, and particularly in his oration for Ligarius? Any other turn would make his exordium more languid. To be convinced of this, we need only examine this forcibly pointed sentence. “You have then, Tubero, what is

\* In that of his oration for Ctesiphon.

most to be wished for by an accuser ; you have a criminal confessing his guilt." If he addressed the judge, and said : " Tubero has therefore what is most to be wished for by an accuser ; " how great the difference ! The first way, he presses and closes in with his enemy ; by the second, he would but barely specify the matter. The same may be said of the example from Demosthenes, if given another turn. Does not Salust make a direct and immediate apostrophe to Cicero, where he says ; " I should take extremely ill, and be deeply affected by your aspersions, &c." as Cicero himself does to Cataline ; " How long will you abuse our patience ? "

That none may be surprised at the apostrophe, we see how Cicero, in his defence of Scaurus, accused of bribery, makes use of a prosopopeia in the beginning of his exordium. For Rabirius Posthumus, and the same Scaurus, accused of extortion, he makes use of example ; and for Cluentius, as above observed, of partition. Yet these, because sometimes admissible, and with very good effect, ought not to be used on all occasions, but only where reason should seem to take place of precept. The same may be said of similitude, so it be short, and metaphors and other figures, (the use of which is prohibited by our wary and accurate authors) unless one should be displeased with Cicero's admirable irony in his defence of Ligarius, which I a little before spoke of.

But there are real faults in an exordium, which have been justly censured. Using the same turn in the exordium of several causes, makes it to be called vulgar ; which, however, though not so  
well

well received, is sometimes adopted to advantage, and has not been declined by great orators. The exordium, which the adversary may equally use, is called common. That, which he may turn to his advantage, commutable. That, which does not coincide with the cause, separate. That, which is taken from some other subject, transferred. That, which is long, contrary to precepts. But this is a fault, which may as well be condemned in any other part of the discourse, as in the exordium.

IX. What has been said, regards causes requiring an exordium ; but it is not always necessary, and sometimes it is superfluous, when the judge is sufficiently informed of the matter, or when this matter needs no preparation. \* Aristotle thinks that is of no manner of use, when upright judges are to decide the merits of the cause. Sometimes, though we might be inclined, we cannot use it ; when the judge has a deal of business to dispatch, when he is straitened by time, or when a superior power obliges the pleader to proceed immediately to the point.

Sometimes too, the import and significance of an exordium, will take place in other parts of the discourse ; for in the narration sometimes, and in the arguments, we entreat the judges' favour and attention. This Prodicus thinks advisable, to rouse them, as it were, from a state of oscitancy. Cicero often has recourse to this stratagem : as, " Afterwards C. Varenus, he who was killed by the slaves of Ancharius : this, gentlemen, de-

\* Rhet. i. c. 1.

serves a particular attention." If the cause is marked by a multiplicity of events and circumstances, each may have its preface: as, "Hear now the rest;" and "I pass now to another point." Amidst proofs likewise, many introductions are made in the nature of exordiums. In Cicero's orations for Cluentius and Murena, we see with what precaution he acts, and how he excuses himself, when under a necessity of saying any thing disagreeable to respectable persons, whose authority and interest he must surmount to gain his ends; as in the first, speaking against the Censors; in the second, excusing himself to Servius. But so many introductions of this kind occur, that it is unnecessary to point them out by farther examples.

X. But as often as we use an exordium, whether we pass next to the narration, whether immediately to the proofs, we ought always to preserve a connection between what follows and what goes before. To proceed from one part to another, by some ingenious thought disguising the transition, and to seek applause from such a studied exertion of wit, is quite of a piece with the cold and childish affectation of our declaimers. Thus Ovid plays the wanton in his *Metamorphosis*; but necessity excuses him, as having worked up an assemblage of things very different into the representation of one body. But how is the Orator necessitated to steal away the transition, and deceive the judge, who should have warning to attend to the order of things? He will lose the first part of the narration, if he does not know it is yet begun. But as it should not begin abruptly,

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so also there ought not to be a sliding into it so insensibly as to make it imperceptible to the auditor.

If a long and intricate narration must follow, the judge ought naturally to be prepared for it. This Cicero often does, especially in this passage : “ I must \* proceed pretty high to clear up this matter to you, which I hope, gentlemen, you will not be displeased at, because its origin being known, will make you thoroughly acquainted with the particulars deriving from it.” This is all that has occurred to me concerning the exordium.

• Pro Cluent. 11.

## C H A P. II.

*Of the Narration.*

- I. *That sometimes there is no occasion for it.—That it is either of the cause, or of things belonging to it.* II. *That it is not always to follow the exordium.* III. *What the narration is. That there are three species of it.* 1. *That it is either intirely for us; and then it will be enough if it be clear, short, and probable.—How each of these may be executed.* 2. *Or it is intirely for the adversaries; and then indeed the narration is not to be omitted, but recourse must be had to certain remedies.—What is to be observed in false narrations.* 3. *Or it is equally for both parties.* IV. *Those are refuted who exclude digression, apostrophe, prosopopeia, arguments, and passions, intirely from the narration.* V. *What ought to be the dress of the narration.* VI. *Of the evidence of the narration, and the authority of the person that makes it.*

**T**HE judge being prepared in the manner above specified, it is very natural, and it commonly is and ought to be done, to point out the affair on which he is to pronounce judgment. This is the business of \* narration. . .

I. Most authors are of opinion, that a narration ought always to be made, which we shall shew to be false for several reasons. First, there

\* Of narration, see Cic. i. Rhet. 12, 16. l. i. de Inv. 27. 30. l. ii. de Or. 326. 330.

are causes so short, as to require rather to be proposed than told.

This is sometimes the case of the two contending parties, either that they have no exposition to make, or that agreeing on the fact, they contest only the right; as, in a cause before the Centumviri: "Whether the son, or brother, ought to be heir to him, who died intestate?" Secondly, the narration may be suppressed, when even there is room for it; and this happens when every thing is already known to the judge, or an exact relation has been made by the Orator who spoke first.

Sometimes one of the contending parties, and most commonly the plaintiff, need only propose the matter, as most to his advantage; and then it will be enough for him to say: "I ask a certain sum of money due to me according to agreement; I ask what was bequeathed to me by will." It is the defendant's business to shew that he has no right to such a debt or legacy. On other occasions, it is enough, and more advisable for the plaintiff, to point out merely the fact: "I say that Horatius killed his sister." This simple proposition makes known the whole crime; but the order and cause of the fact will suit better the defendant. Let it be supposed on the other hand, that the fact cannot be denied or excused; then the defendant, instead of narrating, will best abide by the question of right. One is accused of sacrilege for stealing the money of a private person out of a temple. The pleader of the cause had better confess the fact, than give an account of it: "We do not deny that this money was taken out of the

temple. It was the money of a private person, and not set apart for any religious use. But the plaintiff calumniates us by an action for sacrilege. It is therefore your business, gentlemen, to decide, whether it can be properly specified as sacrilege."

Though I grant that narration is not sometimes calculated for such cases, I dissent from those, who think it in no respect necessary, when the defendant only denies what he is charged with. Cornelius Celsus is of this opinion, and thinks there ought to be no narration but of the chief point in debate. . .

I think indeed, in this supported by the authority of good authors, that there are two species of narration in judicial matters; the one for the cause, the other for things belonging to it. "I have not killed that man." This wants no narration. I allow it does not; but there may be a narration, and even somewhat long, concerning the probable causes of innocency in the accused, as his former integrity of life, the adversary's motives for endangering the life of a guiltless person, and other circumstances arguing the incredibility of the accusation. The accuser does not merely say, "You have committed that murder," but shews reasons to evince its credibility: as, in tragedies, when Teucer imputes the death of Ajax to Ulysses, he says, that "he was found in a lone place, near the dead body of his enemy, with his sword all bloody." Ulysses, in answer, not only denies the crime, but protests there was no enmity between him and Ajax, and that they never contended but for glory. Then he relates, how he came into that solitary place, how he found Ajax lying

lying dead, and that it was Ajax's own sword he drew out of his wound. To these are subjoined proofs: but the proofs too are not without a narration, the plaintiff alledging, "You was in the place where your enemy was found killed." "I was not," says the defendant, and tells where he was.

Hence it may be inferred, that causes of extortion and bribery can have as many narrations, as there are crimes alledged. These crimes may be denied, and if so, a contrary exposition must refute the arguments, sometimes separately, sometimes all together. Shall a man accused of obtaining dignities by bribery, behave ill, by setting forth his pretensions, on account of his birth, his exemplary life, and the services he has done his country? Or shall he, who is accused of extortion, not explain to good purpose, whatever has been meritorious in his former life, and the causes of his incurring the odium of the whole province, or that of his accuser, or of the witnesses who deposed against him? If these are not narrations, that of Cicero for Cluentius, I mean the first, beginning with the words "A. Cluentius Avitus," is not one; as here no mention is made of poisoning, but only the reasons why he was hated by his own mother.

There are also narrations belonging to the cause, but not of the cause itself, as the circumstance of \* Verres' having put to death a shepherd, for making him a present of a wild boar he had hunted down. Some other narrations seem cal-

\* Verr. vii. 7.

culated for exculpating the accused in consequence of some circumstance foreign to the cause, as in Cicero for Rabirius Posthumus: "As soon as they came to Alexandria, the only expedient proposed by the king to Posthumus for preserving the money, was his taking upon him the charge of royal treasurer." And others, for making a person more odious, as where Cicero gives a description of the march of \* Verres.

Sometimes a fictitious narration is used, either to irritate the judges against the adverse party, as in Cicero for Roscius against Chrysogonus; or to amuse them by some pleasantry, as in his oration for Cluentius against the brothers Cepasii. Sometimes, by way of digression, for ornament sake, as in the same Orator against † Verres, who, he says, robbed the very places of the statue of Proserpine, where her mother Ceres had formerly been in quest of her. All these examples tend to shew, that not only a narration is made where the fact is denied, but that also a narration may fall precisely on the fact denied.

What I said a little higher up, in regard to the narration being unnecessary, when the judge is acquainted with the matter, should not be understood without an exception, unless he knows, not only that such a thing has happened, but also how, and in what manner it happened, according to the opinion we would have him entertain of it. For the end of the narration is rather more for persuading than informing. When therefore the

\* Verr. vii. 26, &c.

† Verr. vi. 105, &c.

judges might not require information, yet, if we apprehend it advisable to draw them over to our way of thinking, we may relate the matter with certain precautions; as that though they have a knowledge of the affair in general, still would it not be amiss, if they chose to examine into every particular fact, as it happened. Sometimes we may pretend to repeat it for them on account of some newly created judge; sometimes, that the standers-by may know the iniquity of the adversary's proceeding; and here, to guard against the loathing all repetition usually creates, we should diversify the exposition with a variety of figures and turns: as, "You remember." "Perhaps it would be unnecessary to insist any longer on this point." "But why should I speak farther, when you are so well acquainted with the matter." So that, to condemn intirely the narration, because the judges have a proper knowledge of the affair in question, would be to condemn the whole speech, which by the same reason might not seem always necessary.

II. Another question, but the subject of a more frequent discussion, is to know, "Whether the narration ought to follow immediately the exordium." They, who think it should, seem to have some reason on their side; for as the design of the exordium is to dispose the judges to hear us with all the good will, docility, and attention, we wish for; and as arguments can have no effect without a previous knowledge of the cause, it follows naturally they should have this knowledge as soon as it can conveniently be given them.

The condition, however, of causes makes some alteration

alteration in this respect; and if it did not, Cicero, in that fine oration he left written for Milo, might seem to have misplaced his narration, by proposing three prior questions. Either then it would be better to relate how Clodius lay in wait to attempt Milo's life, if it was not lawful to plead the cause of a criminal, who had confessed himself guilty of manslaughter; or if Milo was prejudged as guilty by the senate; or if Pompey, who for certain reasons had blocked up all the avenues to the senate-house with an armed force, had done so with the view of being supposed Milo's enemy. Cicero likewise for \* Murena, but in a way different from this, does not begin the narration, till he refutes the adversary's objections. This method may be used to advantage, as often as the crime is not only to be made void, but also charged upon another; for by annulling the imputation of guilt, the narration may afterwards be very seasonably entered upon, to insinuate that another is the guilty person: and thus it is in the art of fencing, the care of putting one's self in a posture of defence precedes that of attacking.

There are often causes, wherein not so much the crime in question is difficult to be made void, as a number of others, of a heinous nature, which have contributed to make the party noted for infamous practices. What must be done in this case to efface the ideas of what is past, and induce the judges to take cognizance of the present affair with a benevolent inclination, and without preju-

\* Others read *for Varenus*; which oration is not extant. In that for Murena, there is no narration.

dice? Suppose the defence of M. Cœlius is to be made. Should not his advocate, first, quash the scandalous reports of his luxury, debauchery, and prostitutions, before he speaks of the crime of poisoning he stands charged with: next, should he not fall insensibly on his good qualities; and lastly, on the stress of the present cause? Cicero has eminently acquitted himself of all these particulars. . .

III. We may now pass to the manner of narration, which is of a thing done, or \* supposed to be done, and is conceived in a way proper to persuade; or it is, as Apollodorus defines it, a discourse informing the auditory of the matter in dispute.

Most writers, those especially that follow the opinions of Isocrates, will have it to be clear, short, and probable. . The same division has also my approbation; though Aristotle in one respect dissents from Isocrates, making a jest of the precept of brevity, as if narration, necessarily long or short, admitted no medium. The disciples of Theodorus receive only the verisimilitude, because it is not always of service to give a brief and clear account of a thing. The conditions of each must therefore be carefully distinguished, in order to know how we may properly avail ourselves of them.

The narration is either intirely for us, or intirely for the adversary; or partly for us, and partly for the adversary.

\* For the thing narrated, ought to be true, or indeed probable.

1. If it be intirely for us, we may content ourselves with those three parts, whereby the judge is made the more easily to understand, remember, and believe. But let none think of finding fault, if I require the narration which is intirely for us, to be probable, though true; for many things are true, but scarce credible, as, on the contrary, many things false, though frequently probable. We ought therefore be careful that the judge should as much believe what we feign as the truth we say, by preserving in both a probability to be credited.

These three qualities of the narration belong in like manner to all other parts of the discourse; for obscurity must be avoided throughout the whole action, and we must every where keep within certain bounds, and all that is said must be probable; but a strict observance of these particulars ought more especially to take place in that part wherein the judge receives his first information, in which if it should happen, that he either does not understand, remember, or believe, our labour in all other parts will be to no purpose.

The narration will be clear and intelligible, if first, it be expressed in proper and significant words, which have nothing mean and low, nothing far fetched, nothing uncommon. Secondly, if it distinguishes exactly things, persons, times, places, causes; all which should be accompanied with a suitable pronounciation, that the judge the more easily may retain what is said.

This is a quality neglected by most of our Orators, who charmed by the applauses of a rabble raked together by chance, or even bribed to applaud

plaud with admiration at every word and period, can neither suffer the attentive silence of a judicious auditory, nor seem to themselves eloquent, unless they make every thing ring about them with tumultuous clamour. To explain simply the fact, appears to them too low, and common, and within the reach of the illiterate ; but I fancy what they despise as easy, is not so much out of inclination, as the inability of effecting it. For, the more experience we have, the more we find that nothing is so difficult, as to speak in such manner, that all, after they have heard us, might think they could acquit themselves equally as well. The reason for the contrary notion is, that what is so said is considered as merely \* true, and not as fine and beautiful. But will not the Orator express himself in the most perfect manner, when he seems to speak truth ? Now, indeed, the narration is laid out as a champion-ground for eloquence to display itself in : the voice, the gesture, the thoughts, the expression, are all worked up to a pitch of extravagance ; and what is monstrous, the action is applauded, and yet the cause is far from being understood. But we shall wave farther reflections on this misguided notion, lest we disoblige more by reproofs faults, than oblige by giving advice.

The narration will have its due brevity, if we begin by explaining the affair from the point where it regards the judge ; next, if we say nothing foreign to the cause ; and lastly, if we re-

\* When a thing is clearly and simply explained, they think a narration of the sort, because wanting the charms of figures, is not *bona*, perfect ; but only *vera*, true.

trench all superfluities, yet without curtailing any thing that may give an insight into the cause, or be for its advantage. There is a certain brevity of parts, which however, makes a long whole : " I came to the harbour, I saw a ship ready for sailing, I asked the price for passengers, I agreed for what I should give, I went aboard, we weighed anchor, we cleared the coast, and sailed on briskly." None of these circumstances could be expressed in fewer words, but it is sufficient to say : " I sailed from the port." And as often as the end of a thing sufficiently denotes what went before, we may rest satisfied with it, as facilitating the understanding of all other circumstances. When therefore it may be expressed with propriety, " I have a grown-up son," all incidental circumstances would be superfluous ; as, " Desirous of having children I married a wife, had a son by her, gave him proper education, and brought him up to man's estate."

But often striving to be short, we become obscure, a fault to be equally avoided, and therefore it is better the narration should have, than want. What is redundant, disgusts ; what is necessary, is retrenched with danger. Salust's conciseness and abrupt manner is not to be imitated, though in him a perfection. It may less perhaps escape an attentive reader, but flies from ears without a return. A reader is commonly a person of letters, whereas our \* judges often quit their rural occupations, to take upon them that function ;

\* Of the judges, many employed in agriculture, dwelt in the country ; whence they came to town to act as judges. They were divided into wards, or certain precincts.

and

and how shall they know matters, unless clearly explained? So that, as much as is necessary, and as much as is sufficient, may be a rule in all respects, and especially for narration.

I would not have this rule restricted to what is barely sufficient for pronouncing judgment on; because the narration for being concise, must not therefore be without ornament. In such case it would appear as coming from an illiterate person. Pleasure, indeed, has a secret charm; and the things which please seem less tedious. A pleasant and smooth road, though longer, fatigues less than a rugged and disagreeable short cut. I am not so fond of conciseness as not to make room for illustrating a narration with proper embellishments. If quite homely and curtailed on all sides, it will be, not so much a narration, as a poor huddling up of things together.

Some narrations from the nature of the cause require a good length, and as I directed, the judges ought to be prepared for them in the latter part of the exordium. Afterwards, all possible art should be used to abate something of this length, or to find means for remedying the disgust it may occasion.

The length is abated by transferring as much as we can, to another part of the discourse, yet mentioning what we so transfer: as, "The motives he had for committing this murder, who were his accomplices, how he lay in wait, is what I shall speak of in the proofs." Some things may be omitted in the order of the affair, as by Cicero for Cecinna: "Fulcinus dies, I shall desist from

from a farther detail of circumstances, as not essential to the cause."

Disgust is remedied by dividing the matter : " I shall speak of what passed before, at, and after the time of making this contract." Thus, it may seem that it will be less one long narration, than three moderate ones. Sometimes, it may not be amiss to distinguish each point by a short notice : " You have heard how the affair began ; hear now its progress." In this manner, the judge will be glad to see an end put to the first parts, and will prepare himself, as it were, for a new beginning.

But, if notwithstanding all these precautions, the order of things should lead too far, it will not be amiss to conclude each point by a sort of recapitulation, which Cicero does, even in a short narration : " As yet, Cæsar, no guilt appears in Ligarius ; nothing can be laid to his charge. He left home, not only, not with any design of engaging in a war, but even when there was not the least suspicion of a war."

The best way for making the narration probable is, by having first consulted with ourselves on whatever is agreeable to nature, that nothing may be said contrary to it ; next, if we have found causes and reasons for facts, not for all, but for those belonging to the question ; and lastly, if we have characters answerable to the alledged facts which we would have believed ; as if one guilty of theft, we should represent as a miser ; of adultery, as addicted to impure lusts ; of manslaughter, as hot and rash. The contrary  
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takes place in defence, and the facts must agree with time, place, and the like.

There is a kind of coincidence for making a thing credible, of which numerous examples occur in dramatic compositions; and some things so naturally follow, and chime in with each other, that if what goes before be properly related, the judge himself will give a guess at what is to follow.

It will also have no bad effect to disseminate the narration with proofs; but so slightly, as to keep in mind that it is a narration, and not a proof. Sometimes what is proposed may be confirmed by some plain and short argument, as in a case of poisoning. "He was in perfect health when he drank; at the same instant he fell down dead, and immediately his body became bloated and livid." Preparations too have a like effect; as when the accused is said to be strong, armed, and ready for encountering a weak, defenceless person, and apprehensive of no harm. And, indeed, whatever is treated of in the proofs, person, cause, place, time, instrument, opportunity, may be touched upon in the narration.

If we sometimes cannot have recourse to these means, as it may happen, we may acknowledge that the crime is scarce credible, but that it is not less true, and therefore more heinous; that we neither know upon what account, nor how it was committed; that we are indeed surprised at its enormity; but that, however, we shall prove it to have existed.

But of all preparations the best are those which seem to have no design. In this view Cicero, though he gives a very plausible turn to, and sets

in a favourable light, all he says in regard to Clodius's being the aggressor; yet nothing can be so exquisitely contrived for the good of the cause as his very subtle imitation of simplicity: "As for Milo, my lords, having been in the senate-house that day, as long as the house continued sitting, he came home, he changed his shoes and robes, he waited some time, till his wife, as is usual, got herself ready." How easy and placid Milo seems to be, and how different from a man of hurry, or one who had any ill design in his head! This reflection is the natural result of the slowness this eloquent man embarrasses the departure of Milo with, which is still represented in a more striking manner by common and vulgar words, used designedly to cover the artifice. Any other way of expressing himself would have put the judges on their guard against him. These things may seem cold to many; yet it is manifest the judges might have been brought into a deception by a thing, which the reader hardly sees into.

Such are the methods that make a narration probable; for not to say in the narration things contrary or repugnant to each other, if one should require such a precept, it would be in vain to give further instructions, though some writers of arts have greatly prided themselves for the discovery of this precept, as something very judicious.

To these three qualities, which every narration ought to have, some add magnificence, as if all sorts of subjects were susceptible of it, as if a pompous and magnificent narration was proper in private causes, wherein the question may concern loans and bargains, the letting of houses, and the like.

like. Neither is this magnificence always of any advantage, as may appear from the above example of the oration for Milo; and we should remember, that there are many causes, in which it will be necessary to confess, or palliate, or extenuate the crime, to all which the quality of magnificence is foreign. So that it is no more essential to the narration to speak magnificently, than it is to excite pity, hatred, or to use a grave, smooth, or polite style. All these are very good in their own place, but to imagine they are peculiarly calculated for narration, is a mistake.

I say as much of another quality Theodectes assigns it, though not more suitable to it, than to any other part of the discourse. This is agreeableness.

To these some add evidence; and I must not dissemble that \* Cicero goes still farther, for besides admitting perspicuity, brevity, and probability, he will have an evidence, agreeable to the manners and characters of persons supported by a certain dignity. Indeed, in all parts of the discourse, and not in the narration only, this agreement of manners with dignity, ought to take place, if it well can. As to evidence, I believe it very necessary, when the fact must be made sensible, but it may be included in perspicuity. Others, on the contrary, reject evidence, because in some causes the truth ought to be disguised. This I take to be a ridiculous notion; for he who disguises truth, substitutes falsehood to it, and consequently must

\* In Top. 97.

strive to demonstrate that it is evident, which is absurd.

2. But as chance has led us insensibly to the more difficult kind of narration, I mean that which is against us, we shall now speak of it. Some think, that in this case no narration should be made. Nothing, indeed, could be more easily done, if the whole cause likewise was not to be set aside. But if your motives are good for undertaking such a cause, can there be any art in confessing its badness by silence? Unless perchance you fancy the judge so stupid as to pronounce in your favour on a thing, you was unwilling to give him any information of. I do not disown, that as in a narration, there are some things to be denied, some to be added, some to be changed; so also, there are some we ought to keep silence on; but we ought not to be silent, but where we are at liberty to speak or not to speak; which is sometimes done for brevity's sake, as "He answered what he thought proper."

Let us therefore distinguish between these kinds of causes. In some, there is no question of the crime, but of the default or form of the\* action; and then we may confess every thing. "He robbed a temple, but it was of money, the property of such a person; therefore he is not justly accused of sacrilege." But in such confessions the odium occasioned by the adversary's narration, may also admit of being extenuated. Our slaves excuse their faults, why then should not the free be

\* He understands the definitive state, as appears by the following example.

allowed

allowed to do the same? We may likewise soften some things by a sort of indirect narration. "He did not, as the adversary would fain insinuate, come into the temple with a design of plunder: his design was not premeditated. It was opportunity, the absence of the keepers, and the sight of this treasure, a powerful temptation, that prompted him. But no matter, he transgressed, and is guilty of privately stealing. It signifies nothing to defend that, for which we do not decline punishment." Sometimes we act as if we condemned the party ourselves. .

Sometimes a cause may be prepared by a proposition, and afterwards narrated. All circumstances are unfavourable to three sons, who had conspired against their father's life. They cast lots who shall strike the blow. He, on whom the lot falls, enters by night into his father's bed-chamber with a poinard, but had not courage to put the design in execution. The second, and the third do the same. The father wakes. All confess their wicked design; and by virtue of a law, in such case made and provided, they are to be disinherited. But should the father, who has already made a partition of his estate in their favour, plead their cause, he may proceed thus: "Children are accused of parricide, whose father is still alive; and they are sued in consequence of a law, that is not properly applicable to their case. I need not here give an account of a transaction that is foreign to the point of law in question; but if you require a confession of my guilt, I have been a hard father to them, and rather too attentive to hoard up the income of my estate, which would

have been better spent in necessities for them." Afterwards, he may say that they did not form this design of themselves; that they were instigated to it by others who had more indulgent parents; that the event clearly shewed they were not capable of so unnatural an action; that there was no necessity for obliging themselves by oath, if in reality they could have had such an inclination; nor of casting lots, if each did not want to rid himself of perpetrating such a crime.—All these particulars, such as they are, will be favourably received, as softened in some measure by the short defence of the previous propositions.

But when the question concerns the existence and quality of the fact, though all should be against us, how shall we avoid narration without endangering the cause? The accuser related the affair, and not as it was transacted; he brought an odium upon us; he aggravated matters just as he fancied; he corroborated what he said by arguments; he fired the judges with his peroration, and left them replete with indignant emotions. They naturally expect how we shall relate the matter; and if we make no reply, they must necessarily believe all that the adverse party have urged against us.

Well, and must we relate the same things? We must, but not after the same manner, when the question is on the quality of the crime, which happens, as often as the fact is not contested. Other reasons and motives may be pleaded. Some things will admit of being moderated or extenuated by less harsh words. Debauchery may be softened by the appellation of cheerfulness, avarice  
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by that of œconomy, neglect by that of inattention. In short, the air of the countenance, the tone of voice, an appearance of distress, may procure some favour or pity; and sometimes also an humble confession may incline hearts to mercy.

I would now ask those of the contrary opinion, whether they pretend to defend or not, what they will not relate. For if they neither defend, nor relate the matter, they betray the whole cause. But if they design to defend it, at least it should seem that they ought to propose what they undertake to maintain. Why therefore must not we explain that which also is liable to be refuted? That this may happen, it must necessarily be pointed out. Or what other difference is there between the proof and narration, than that the narration is a continued proposition of the proof, and the proof reciprocally a proper confirmation of the narration?

We should therefore consider whether this exposition ought not to be fuller and longer than ordinary, on account of the preparation and arguments inserted in it; I do not mean argumentations but arguments, the force and efficacy of which will consist in frequent affirmations. In order also, to make what we say to be attended with good effect, we may intimate to the judges, that it is not possible to satisfy every particular in the first exposition; and that they will be pleased to wait, and to suspend their judgments, and to hope for the best from us. Lastly, the narration must differ in all the respects it possibly can from that of the adversary, or the exordium must be suppressed as superfluous, which in this kind of causes may

be thought, as serving only to dispose the judge for the knowledge of the fact. But it is evident, that the exordium is no where else so necessary, as when the mind of the judge must be made to divest itself of any prejudice it had conceived against us.

In regard to causes, whose state is conjectural, and where the fact constitutes the question, the narration is not so often of the point contested, as of the things that serve to clear it up; which when the accuser couches in terms of violent presumption that they must have so happened, the accused on his side is to ward off the suspicion; and so it is that their respective narrations must be different.

But should it be said that arguments \* crowded together are of some weight, whereas separate they make but languid impressions, I answer that this regards the manner of the narration, and not whether the narration ought to be made. What should hinder the mustering together of arguments in the narration, if conducive to the good of the cause? The same may be said of promising to prove the thing elsewhere by further arguments, of dividing the narration, of proving every part, and so passing to what follows.

I am not likewise of the opinion of those, who think that the facts ought always to be related in

\* This is objected to Quintilian by those, who, when the whole cause is against us, are of opinion that the narration should be suppressed. Then they say no narration is to be made, unless accompanied by many arguments, which of themselves support and strengthen a bad cause. But when there is a set narration, it necessarily happens, that the arguments, which mustered together, might have some force, must appear weaker, when disjointed and scattered through the whole narration.

the same order they happened. That manner of narration is best, which is most to the advantage of the cause; and it may, not improperly, call in the aid of a diversity of figures. Sometimes, we may pretend that a thing escaped us, to make room for expressing it better than in its own order and place; assuring the judges at the same time that we shall resume the proper order, as the cause, by what we say, will be better understood. Sometimes, having explained the whole affair, we may subjoin the antecedent causes. And thus it is, that the art of defence, not circumscribed by any one invariable rule, must be adapted to the nature and circumstances of the cause; in this, so far resembling the condition of a wound, which must have proper applications directly; or, if the cure can be deferred, must be left bound up.

Neither do I think it a wrong step to make several narrations. Cicero has done so in his oration for Cluentius. It is not only allowable, but also sometimes necessary, as in causes of extortion, and all such as are not simple. To be scrupulous in regard to the violation of precepts, so as to be tied down to them contrary to the good of the cause, is next to madness. The narration has been therefore appointed to be placed before the proofs, that the judge might not be ignorant of the matter in debate. Why therefore, if every thing is to be proved or refuted, ought not also every thing to be related? If my own experience be of any account, this indeed was my practice at the bar, as often as I saw it necessary, and with the approbation too of the learned, and those who were the judges: and, that I may not seem to arrogate any thing

thing to myself, as many are still living who can justify my assertion, amongst the several advocates who were to plead the same cause, I was the person usually appointed to state it. I do not, however, pretend, that it is not better for the most part to follow the order of facts. Sometimes, it would be even ridiculous to change it; as, if one was to relate that a woman was delivered of a child, and afterwards conceived; or that a will was opened, and afterwards sealed. In such cases, if what is subsequent is mentioned, it is best to be silent on that which is prior to it.

There are also false narrations, and of these two sorts are in use at the bar. The one, is helped by certain \* instruments; so Clodius, by the means of suborned witnesses, proved that he was at Interamnæ, the same night that he had committed an incest at Rome. The other is indebted for its probability to the orator's ingenious manner of giving it that specious colouring. . . But in either case, it should be a principal care, that whatever is invented, may retain a possibility of being effected; and in the next place, that it agree with person, time, and place, and have a credible reason and order, and a connection, if it can so happen, with something true, or to be confirmed by some argument belonging to the cause, as those quite foreign to it must discover the imposture.

Another care incumbent on those that hazard fictions, is to guard against contradicting themselves. Some things considered separately are passable, but collated are inconsistent. Nothing,

\* These are properly *unartificial proofs*, or what may tend to enforce an *alibi* evidence.

besides,

besides, of what is alledged, should be contrary to what is true in the cause. The orator too ought constantly to keep in mind every false allegation, for nothing is so easily forgot, and the vulgar maxim is true, which says, that "a liar ought to have a good memory."

It must be remembered likewise, that whatever is invented, should be so ordered, as not to run counter to the deposition of a witness. There are things said as we fancy, which none are privy to but ourselves. No body will deny an instrument supposed to be the deed of a deceased person: They, in the same interest with us, will keep the secret; and though the adverse party may accuse us of forgery, they will not therefore be the more credited. Add hereto, the arguments deduced from dreams and such like superstitions, which have lost all belief, because nothing is easier than to have recourse to such frauds.

But it will not be enough to make the narration plausible by specious colours, unless consistent with the whole action; and more especially, when certain things are not proved without obstinately adhering to, and insisting on them: such is the case of the parasite, who observing a young gentleman three times disinherited, and \* dismissed from all paternal care and jurisdiction, by a rich squire, took it into his head to assert that this

\* *Absolutum* in the text, properly signifies *liberum*, discharged as free to shift for himself as well as he could. Valerius writes, that if a son should be three times disinherited, he cannot again, against his inclination, be brought back again into his father's family, and under his power and jurisdiction.

young gentleman was his [the parasite's] own son. He will have some colour in alledging, that poverty obliged him to make a foundling of his son; but that to have the opportunity of seeing him taken care of, he had personated the parasite in the 'squire's house; and that this innocent young man was three times disinherited, because in fact he was not the son of him who had disinherited him. These, in the main, are specious arguments; but if all his words do not express, in the most lively and tender manner, a fatherly affection; if they paint not in proper colours the hatred of the 'squire for this youth, and the danger he is exposed to from abiding in a family that abhors him, he will undoubtedly be considered as an \* impostor. . .

3. If the narration be partly for, and partly against us, we must endeavour to judge from the condition of the cause, whether the narration ought to be mixt or separate. If there be more things to our disadvantage, whatever we may avail ourselves by, will run the risque of being overpowered. In this case, it will be adviseable to place a distinguishing mark between them, and having explained and confirmed the things that are for us, we may have recourse to the above prescribed methods for weakening or destroying the rest. If more things are for than against us, we may join them together, placing what is against us in the center, like so many auxiliary troops, hemmed in, to be kept from doing harm. None of either, however, must appear as they

\* In the text, *subj. et p-titoris*, as one maliciously suborned to involve the 'squire in a law-suit.

are; but as we proceed, our own must be confirmed by some proof, and the probability of the others invalidated by some substantial reason; because if not thus qualified, the spreading contagion may infect that which is sound.

IV. Besides the precepts hitherto mentioned, there are some others, which are also usually prescribed for the narration. These are, that there should be no digression from it; that none should be addressed in it but the judge; that another person should not be made to speak; that no argument should be made in form; and as some add, that the passions should not be moved. These precepts ought to be generally observed, and never changed, but from some cogent reason, that the narration may be clear and succinct.

Digression takes place but very seldom, and when it does, it ought always to be short, and such as may shew that we are driven out of our strait road by a violent gust of passion. Thus \* Cicero on the marriage of Saffia: "O wickedness without example, and a wickedness incredible, did it not appear in this woman! What an unbridled and ungovernable lust! What an unparalleled impudence and audaciousness! Not to have dreaded, if not the avenging power of the Gods and the indignation of men; at least, that very night and the nuptial torches, witnesses of her impurity; and not to have been shocked at the sight of the very chamber, the bed, the walls even, which called to her re-

\* In his oration for Cluentius, n. 15.

membrance the chaste nuptials of her daughter."

An *apostrophe*, or turning the discourse from the judge, is very proper to point out a thing in few words, and is also very smart in reprehension. What I therefore said of that figure, and of the *protopopeia*, in regard to the exordium, is applicable to the narration. Servius Sulpitius made use of the first in the cause of Aufidia; "Is it a drowsiness, or lethargy, that possesses you?" And Cicero of the second, in one of his pleadings against \* Verres. It is the narrative of a conversation between an officer of Verres and the mother of some unhappy person unjustly detained in prison. "To have the liberty of seeing your son, you shall give me so much, &c." In his defence of Cluentius, does he not make Statellus discourse with Bulbus, and does not their conversation give an air of truth to all he relates? Lest then he might be thought to have employed such figures without much reflection, which is not credible in him, he thus explains himself in his † partitions: "Let the narration have sweetness, let it cause surprize, let it keep the mind in suspense, let it be interspersed with dialogues, and let it speak the language of all the passions."

I before observed that we must never proceed to argumentation in the narration, but may sometimes insert in it an argument, as Cicero does for Ligarius: "He so governed his province, that nothing was of more advantage to him than peace." We may likewise, as we re-

\* Verr. vii. 105, and 116.

† N. 31. 32.

late the fact, justify it by a few words; for we must relate things not as witnesses, but as orators. "Quintus Ligarius departed with C. Confidius for Africa." This is the order of the fact. How does Cicero turn it? "Quintus Ligarius, when there was no suspicion of a war, departed with C. Confidius for Africa." And in another place, "Quintus Ligarius left Rome, not only without the least design of engaging in a war; but also, when there was not the least rumour or appearance of a war." To point out the matter, it would be sufficient to say: "Quintus Ligarius would never engage in any party affair;" but Cicero adds, "Quintus Ligarius, sighing after his home, and full of solicitude to return to his family." Thus what he related, he made more credible by reasons, and more animated and affecting by sentiments.

I am therefore the more surprised at those, who think no use ought to be made of the passions in the narration. If they say, they may be used sparingly, and not as in the peroration, I am of their opinion: for we must avoid being tedious. But why should I not, when I instruct the judge, move him likewise? And if I am willing to gain my point in the latter part of the action, why ought I not endeavour to do it in the beginning, when especially, even in the proofs, I may influence his mind by possessing it with indignation or pity?

What emotions did not \* Cicero excite by a short description of the punishment of a Roman

\* Verr. vii. 161.

citizen, whom Verres had rashly condemned to be lashed? He laid open not only the kind of punishment, the circumstance of the place, the condition of the person; but also his magnanimity, as in the midst of stripes, he had neither recourse to prayers nor tears, but said only that he was a Roman citizen, a word which kindled anew the rage of Verres, and made him sensible of his injustice. What shall I say of the lively colours by which he paints the cruelty of Verres, exercised on \* Philodamus? He not only fired the hatred of the judges against him, but by relating the circumstances of the punishment, forced tears from their eyes. They were not merely hearers, but spectators; they were eye-witnesses, I may say, to a father and son, sacrificed in presence of each other to the rage of this monster, the father deploring the misfortune of the son, and the son that of the father. What can any peroration have more affecting? To wait till the end of the discourse, for moving compassion on things you related without concern, would be too late. The judge, who was not touched by the recital you made, will shew the same cold indifference in the peroration; for it is a hard matter to change the disposition of a mind once fixed.

V. I shall not dissemble my own opinion, though what I am about to say is more built on example than precept: I mean, the narration in a more especial manner than any other part of the discourse, ought to be embellished with graces and

\* Verr. iii. 76.

beauties : but it is of vast significancy to be acquainted with the nature of the thing we relate.

In less considerable causes, as are commonly all private ones, the dress should fit close ; and be exactly fitted, as it were, to the thing. The expression, which in a common place, flows with rapidity, and is not discernible on account of the richness spread about it, ought in the narration to be conceived with the greatest accuracy. Every word must be proper, and, as Zeno says, tinged with a sense of the thing spoken of. The composition should be simple in appearance, yet the manner elegant, with figures rather not poetical, nor boldly hazarded, as those of the ancients, and now contrary to the standard of language. The diction, as pure as possible, averting by variety a sense of loathing, and recreating the mind by changes ; that there may not be a sameness of cadence, a similarity of collocation, and periods made up of an equal number of syllables. All other attractive charms are foreign to a narration of this sort, and unless commendable by such as we have mentioned, it must of course be flat and lifeless. A judge is never elsewhere so attentive, and nothing well said escapes him. It happens also, I know not how, that pleasure begets persuasion, and that what the auditory find agreeable, they are most commonly induced to believe.

If the cause is on a matter of some consequence, there is full liberty to relate things of a heinous nature in a manner proper to excite indignation ; and mournful things in a way that may stir up the feelings of compassion. But these sensations are not to be worked up to a degree of being exhaust-

ed; rather, as observed in painting, they ought only to be delineated, a few touches of the pencil serving to shew a sketch of the designed figure. It will not be improper also to awake the attention of the judges by some ingenious observation, but short, as that in the oration for Milo: "Milo's domestics did then, my lords, what every one would be glad theirs should do on a like occasion." Sometimes, by a bolder one, as \* this: "A mother-in-law marries her son-in-law, without any good motive to authorize this proceeding; without consulting her relations and friends; ominous presages on all sides boding nothing but maledictions on her head." If this was not unfrequently practised in those times, when the pleading had more in view the good of the cause, than a display of eloquence, and when trials were still conducted according to the rigour of the law; by how much the more ought it not to be now admitted, when pleasure forcibly breaks in upon causes, wherein nothing less is debated than men's lives and fortunes. I shall speak † elsewhere of rectifying the taste of our age, which at present must meet with some indulgence.

VI. A sensible image of things heightens the graces of what is true in a narrative, and seems ‡ actually to place it before the eyes of the auditor. Such is the description || Cælius makes of Antony.

"They

\* Cicero for Cluentius, 14.

† In the 4th part of the introduction to B. viii. and c. 3. of the same book.

‡ See examples of this in Cicero for Roscius Amerinus, n. 98. Verr. 7. n. 105. and 161, &c.

|| This passage is not printed in Rollin's edition. Perhaps he thought it not fit for the curious eye of a youth, and therefore

“ They found him; shall I tell you, in what condition? Figure to yourselves a man intoxicated by liquor, plunged into a profound sleep, snoring prodigiously, and belching forth the noxious vapours of wine, with which he was almost suffocated! Figure to yourselves the very good ladies that prostituted themselves to his impurities! Behold some of them lying tossed on each other upon beds and squabs, in postures, I cannot assure, extremely modest; and others stretched here and there, as wine and chance would have it! At the noise and approach of the enemy, the women are roused; a panic seizes them; they all run for help to their hero. One calls him by his name; another hauls him out of bed; another whispers softly in his ear, “ My dear! awake; ” another pinches him. At length, he awakes. He rolls about his eyes, looks at the women, cannot distinguish one of them, hangs about the neck of the nearest to him in embraces, the constant motions he is agitated by will not permit him to sleep, his drunkenness will not suffer him to continue awake: thus half asleep, and half awake, he was tumbled about in the hands of centurions and harlots.” Nothing can be imagined so probable, nor so tartly reproached, nor so sensibly exhibited as this narration.

It will not be amiss to intimate, that nothing enhances so much the credibility of a narration, as the authority of him that makes it; and this au-

thority suppressed it. But indeed, as it may be thought not offensive to modesty, but serving rather to excite indignation, and horror, the beauty and excellence of the description made me venture to translate it.

thority it is our duty to acquire, above all, by an irreproachable life, and next by the manner of enforcing it. The more it is grave and serious, the more weight it will have. In this part, all suspicion of cunning and artifice, should therefore be particularly avoided; for the judges ever distrustful, are here principally on their guard; and nothing also should seem a pure fiction, or the work of study, that all might rather be believed to proceed from the cause than the orator. But this we cannot endure, and we think our art lost, unless it appears; whereas it ceases to be art, if it does. We seek only to gratify vanity, and in this point of view are centered our endeavours. But is not this sollicitude for appearing great in the opinion of the by-standers, the very thing that betrays our cause and renders us suspected by the judges? . .

### C H A P. III.

#### *Of Digression.*

*Digression is not always necessary after the narration.—When it may be then used.—It is often of service before the confirmation.—It is of various sorts.—It belongs equally to all parts of a discourse.*

**C**onfirmation in the natural order follows narration; for the end of relating a fact is to prove it. But before I enter upon this part, it may not be amiss to animadvert a little on the opinions of some authors.

It is customary with many of our orators, when they have stated the order of things, to make instantly

stantly an excursion into some plausible common place, wherein they exert all the pomp of eloquence they are masters of. This custom originating from declamatory ostentation, has engrossed the bar, ever since our Orators prided themselves more in acquiring the reputation of fine speakers, than consulting the interest of their clients. And hence, I imagine, may be accounted for their apprehension of the discourse becoming cold and languid from a delay of their grand flourishes, if the harshness of proofs should succeed that reserved and close style, which is often required for the narration.

The fault I find is, that by being used indiscriminately in all sorts of causes, as if always expedient, or even necessary; and by the heaping up of thoughts upon thoughts, which would be better placed elsewhere, other parts must be unavoidably weakened; besides which, there may be a disagreeable repetition of the same things, or they may not be said in their proper place.

I, however, acknowledge, that this way of expatiating may strike in very opportunely, not only after the narration, but after general and particular questions, so the subject requires, or at least permits it; and it may likewise serve to illustrate and adorn the discourse, if coherent and subsequent; but not, if wedged in by force, and breaking the union of things, amongst which there was a natural connection. Nothing indeed, follows so well the narration as the proof, unless the excursion be looked upon as the end of the one, and the beginning of the other. It may therefore sometimes find room, as when the exposition

having aggravated the horror of a crime towards the end, we pursue the emotion, and break suddenly, as it were, in spite of us, into a strain of indignation. But to do so, the fact must admit of no doubt; for before making it appear enormous, it must first be made to appear true, because the odium from a crime is rather favourable to the supposed delinquent before it is proved, it being very difficult to believe that one is capable of perpetrating an act of villainy which may seem extraordinary.

Again, if on account of services rendered your adversary, you inveigh against his ingratitude; or, if after reciting a multiplicity of bad actions, you shew how dangerous the consequences may be; the digression in such cases may not be without its use: but all things of this kind should be obviated in a few words; for the judge, so soon as he has a knowledge of the fact, hastens to the proof, and wants to be certain of the judgment he shall pass on the cause. Besides, we must be aware, lest possessed by a new object, and out of patience by frivolous delays, he may not lose sight of the narration itself.

But as digression is not always necessary after the narration, a preparation before the question will be often useful, if on first sight unfavourable, or if we defend a cruel law, or enforce penary actions. This will be as an exordium to what follows, for making the judge more benevolent to our proofs; and it may be done with greater freedom and more earnestness, the judge being already acquainted with the cause. We shall therefore by lenitives adopted in this manner, mitigate  
whatever

is harsh, and make what we have to say more supportable to the judges, thereby preventing their aversion of our rigorous law, as nothing is so hard as to persuade persons against their inclination. Here too, it will not be improper to know the bent of the judge's temper, whether disposed to decide by equity, or by the rigour of the law, as thus we may manage him accordingly. The same thing also may serve as a preroration after every question.

The Greeks call this part *παρέκβασις*, the Latins\* egression; and of it there may be many sorts, as I said, disseminated through the whole cause: as, the praise of men and places, the description of countries, the narrative of adventures, true or fabulous. Of this kind are, in the orations against † Verres, the praise of Sicily, the rape of Proserpine; in the oration for L. Cornelius, that popular commemoration of Pompey's virtues, by which that divine Orator, forced, as it were, to break the thread of his discourse on naming so great a general, so happily went astray, that he might seem to have pleaded not so much for his client, as to be animated with the desire of paying a compliment to the hero.

The digression then is, in my humble opinion, "a part, added contrary to the natural order of the discourse, which discusses a point foreign to it, yet useful to the cause." I do not therefore see, that there is more reason in assigning it a place immediately after the narration, than determining its

\* Of the egression, see Cicer. l. ii. de Invent. 97. l. ii. de Orat. 311, 312.

† Verr. iii. 2. Verr. vi. 105.

proper object, when there are so many ways for a discourse to pass out of its strait road. Whatever is said besides the five constituent parts of an oration, is properly a digression, extending to the exciting of indignation, pity, hatred; the making of reproaches, and excuses; the procuring of favour, and refuting of malicious reports; together with things not belonging to the question, every exaggeration and diminution, all kinds of passions, and such common places which greatly add to the beauties and ornaments of eloquent composition, as on luxury, avarice, religion, and duties, which, indeed, are not so much excursions from the subject, as relative to, and having a connection with the things that prove it.

Still many things of different nature and relations are inserted, the end of which is to recreate, advise, make favourable, entreat, and praise the judge. There is an infinity of this sort; some we bring, as prepared, with us; opportunity or necessity makes room for others, as when something new happens during the action, either that the Orator is interrupted, or the audience by some means become disorderly. Cicero, pleading for Milo, was obliged to digress, even in the exordium, as appears by the discourse he pronounced. The digression may be of some length, that prepares something before the question, or is placed after a proof, to make it more forcible; but if made in the middle, it should immediately return to that from whence it digressed.

## C H A P. IV.

*Of the Proposition.*

SOME subjoin proposition to narration, as a part of the judicial matter, which opinion we have already answered. Every proposition seems to me the beginning of a proof\*, which usually takes place, not only in pointing out the principal question, but sometimes also in every argument. But we now speak of the first.

It is not always necessary to use it, as sometimes without a proposition it sufficiently appears what the purport of the question is, especially if the narration ends where the question begins, or is followed by a short recapitulation, as it commonly happens in the proofs. “This affair † was transacted as I told you, my lords; he, who laid the snare perished in it; violence was repelled by violence, or rather valour triumphed over insolence.”

But the proposition is sometimes of singular use, particularly when the fact cannot be denied, and is only defensible by a question of right; as in the case of him who stole the money of a private person out of a temple, the question is, “Whether he stands guilty of sacrilege?” the only point the judge is to attend to. The same may be said of

\* There are two sorts of propositions; the one general and belonging to the whole cause, which briefly comprehend the question in dispute: the other special, which is usually prefixed to each argumentation.

† Pro Mil. 30.

obscure and manifold causes, or such as are embarrassed by a number of incidents. . .

Propositions are simple and complex, and this happens various ways; for many crimes are alleged together, as when Socrates was accused of corrupting the Athenian youth, and introducing new superstitions: and one fact is deduced from, or corroborated by many, as \* Æschines, accused of ill conduct in his embassy, is charged with lying, with doing nothing according to his instructions, with tarrying beyond the time fixed for his return, and with taking bribes. . . By annexing each of these propositions to their respective proofs, they will constitute many; but if complicated together, it will be the business of the division of the pleading to make them appear in their proper light.

There is a sort of proposition, which though not one in form, may retain the same force, as, when after explaining the order of things, we conclude in this manner, "Upon which you are to pronounce." These words are a warning to the judge, or rather like a dart, striking, rousing and making him sensible, that the Orator being now on the point of producing his proofs, requires a renewal of his attention.

\* Æschines was sent ambassador to Philip, king of Macedonia, for the purpose of making a league with him. Afterwards, he was accused by Demosthenes, and this is the division of Demosthenes's oration "On the ill discharge of this embassy."

C H A P. V.

*Of Division.*

- I. *When, and upon what account Division is not to be used.* II. *Its utilities.* III. *Its virtues.*

**D**IVISION \* is an enumeration of ours, or the adversary's propositions, or both together, disposed in order.

I. Some are of opinion division should be always used, as by it the cause will be more clear, and the judge more attentive and docile, when he knows of what we speak to him, and of what we intend afterwards to speak. This others think attended with danger to the orator, either by his sometimes forgetting what he had promised, or by something else occurring to the judge or auditor, which he did not think of in the division. I cannot well imagine how this may happen, unless in regard to one, who may be either destitute of sense, or rash enough to plead without preparation. In any other respect, nothing can set a subject in so obvious a light as a just division. It is a means we are directed to by the guidance of nature, because not losing sight of the heads we propose to speak on, is the greatest help memory can have.

But if division should seem requisite, I am not inclined to assent to the notion of those, who would not have it extend to more than three points. Indeed, when the partitions are too many, they escape the judge's memory and distract his atten-

\* Concerning division, see Cicer. de Invent. i. 31, 32, 33.  
tion;

tion; but a cause is not scrupulously to be tied down to this number, as it may require more.

There are better reasons for not always using division, and the principal is, that most things are better received, when seeming of extempore invention, and not favouring of the closet, but arising in the pleading from the nature of the thing itself. Whence those figures are not displeasing: "I had almost forgot to say: and it escaped my memory to acquaint you: and you have given me a good hint." For if the proofs should be proposed without something of a precaution of this kind, they would in the sequel lose all the graces of novelty.

Add to this, that the judge is to be led into pleasing deceptions, and amused by a variety of stratagems, to keep him from discovering our designs. There are sometimes harsh propositions, which if the judge should foresee, he will take the alarm, like a patient, who being to undergo an operation, dreads the surgeon's incision knife, before he feels it; whereas if, by not previously proposing any thing, you give him no time to reflect with himself, your discourse will take full possession of him, and effect more than can be well expected.

The distinguishing of questions, and the discussing them should both also be equally avoided; but the auditory's passions ought to be excited, and their attention diverted from its former bias: for it is the orator's business not so much to instruct, as to enforce his eloquence by pathetic emotions, to which nothing can be more contrary than that minute and scrupulously exact division

of a discourse into parts, more especially at a time, when we endeavour to deprive the judge of all presence of mind.

Besides, will not many things of themselves light and weak, become considerable when assembled into a body? They are therefore rather to be mustered together, and we must fight as by a sally of main force; yet this ought to be but seldom, and from necessity, when reason in a great degree compells us to act against reason.

There is likewise in every division a point much stronger and more important for consideration than others, which when the judge is apprized of, he will think every thing else as superfluous, not worthy of being attended to. If therefore many things are to be objected or refuted, the division will be both useful and pleasing, that every thing may appear in the order it is to be said. But if we defend a single crime by various ways, division will be superfluous, as if conceived in the following manner: "I shall make appear that the person I defend is not such, as to think it probable he could be guilty of murder; it shall also appear that he had no motives to induce him to it; and lastly, that he was beyond sea when this murder happened." Whatever is alledged and argued before the third point, must seem quite unnecessary; for the judge is in haste to see you come to that which is of most consequence, and though patient, will tacitly call upon you to acquit yourself of your promise; or, if he has much business to dispatch, or his dignity puts him above your trifling, or he is of a peevish humour, he will oblige you to  
speak

speak to the purpose, and perhaps in disrespectful terms.

Upon which account some have censured the division of Cicero's speech for Cluentius, in which he promised he should say; first, "That no man was ever accused of more heinous crimes, and by witnesses more worthy of credibility, than Oppianicus: next, that the violent presumptions of his guilt were such, that no judge could in conscience acquit him: and lastly, that if the judges were corrupted, it was not by the means of Cluentius, but rather against Cluentius." If the third point could be proved, there was no necessity for the other two. But if this division is faulty, none will be so unjust or stupid as not to allow the accuracy of his division for Murena: "I understand, my lords, that the whole accusation is reduced to three heads; the first, reprov-ing his morals; the second, his contention for dignity; the third, his guilt of bribery." Thus does the orator explain clearly the whole cause, and no one point is made superfluous by the other.

Many doubt the goodness of this way of defence: "If I had killed him, I should have done well; but I did not kill him." Where is the occasion, say they, for the first proposition, if the second be true? They run counter to each other, and whoever advances both, will be credited in neither. This is partly true, for if the last proposition be unquestionable, it is the only that should be used. But if we are apprehensive of any thing in the stronger, we may use both.

Persons

Persons on these occasions seem to be differently affected: one will believe the fact, and exculpate the right; another will condemn the right, and perhaps not credit the fact. So, one dart may be enough for an unerring hand to hit the mark, but chance and many darts must effect the same for an uncertain aim. Cicero clears up this matter in his defence of Milo. He first shews Clodius to be the aggressor, and then, by a superabundance of right, adds, that though he might not be the aggressor, it was brave and glorious in Milo, to have delivered Rome of so bad a citizen.

I do not mean here to condemn the order above-mentioned, because some things, though harsh, are so far of service as to soften what follows. Neither is the trite saying altogether without reason, “Your \* demand ought to be unjust, to obtain what is just.” Which, however, is not to be so understood as to imagine all attempts to be equally justifiable; for the Greeks advise us rightly, “Not to attempt what is impracticable.”

But whenever the twofold way of defence I speak of, may be used, care should be taken so to conduct it, that credibility may flow from the first in favour of the second; for he that can safely confess a crime, will not be suspected of lies by denying it; and when there is reason to believe that the judge requires another proof, different from what has been advanced, he must be assured that in this too he shall be fully satisfied, espe-

\* Erasmus thinks this alludes to dealers, who ask for their wares and commodities more than they are worth, that the buyer may bid at length the just value.

cially if the affair is of a scandalous nature or tendency.

And indeed, it often happens, that a cause though safe as to an actual trespass against the laws, is in the main odious and marked with infamy. That therefore the judges may not hear it with reluctance and aversion, they are frequently to be put in mind, that there will be an ample justification of the party's probity and honour, if they only wait a little to know how the whole affair was transacted. The orator may also sometimes pretend that he has hazarded the saying of some things even contrary to the inclination of his clients; as Cicero does for Cluentius in regard to the judiciary law. Sometimes, as if interrupted by them, he will stop short. Often, will he direct his discourse to, and pray them to take in good part, whatever he may judge proper to say in their defence. In this manner will he steal upon the mind of the judge, who hoping to find the honour of the accused cleared, will have less repugnance to the more odious part, which when once properly stated, he will more easily admit the defence of honour; and the two parts thus mutually aiding each other, the judge still in hopes of no blemish on the side of honour, will be more attentive to the question of right, and this well established, will dispose him to think better of the fact, which at first he imagined not much to the credit of the accused.

II. But though division may not be always necessary, being at times likewise superfluous<sup>1</sup>; yet when opportunely adopted, it gives great light and beauty to a discourse. This it effects, not  
only

only by adding more perspicuity to what is said, things by it being drawn out of their confusion, and placed conspicuous before the judges; but also by recreating the auditory with a view of each part circumscribed within its bounds: just so, mile-stones ease in some measure the fatigue of travellers, it being a pleasure to know the extent of the labour they have undergone; and to know what remains encourages them to persevere, as nothing can seem necessarily long, when there is a certainty of coming to the end. Q. Hortensius did not undeservedly acquire praise for his exactness in division, though his way of reckoning the points on his fingers, was sometimes humourously ridiculed by Cicero. There is, however, a certain medium to be kept, by avoiding a division too precise, and as it were conceived in the way of articles, which indeed lessens the dignity of the discourse, and instead of distinguishing the parts, makes them not members, but a collection of scraps. They who seek to please by this subtlety and multiplicity of division, have often recourse to frivolous distinctions, and divide what in itself is one and indivisible; they multiply not so much the objects as diminish their number, and by dividing and subdividing fall into the same obscurity against which division has been calculated.

III. Every division therefore, when it may be employed to advantage, ought to be first clear and intelligible; for what is worse than being obscure in a thing, the use of which is for guarding against obscurity in other things? Secondly, it ought to be short, and not incumbered with any

superfluous word, because we do not enter upon the subject matter, but only point it out.

It will not be amiss likewise to consider, whether it be defective or redundant. It is commonly redundant, when we either divide into the species, the genus being sufficient; or subject the species to the genus: As, "I shall speak of virtue, justice, temperance;" whereas justice and temperance are species of virtue.

The most natural division proposes what is certain, and what is doubtful in a cause. The first head takes in our concessions, and those of the adverse party. The second, the reasons pro and con. In the whole, it should be observed, that there cannot be a grosser fault, than the want of executing in the proposed order.

## B O O K V.

*The* I N T R O D U C T I O N .

*He shews that proving is very necessary to orators.  
He first treats of proofs that belong to all ques-  
tions; afterwards of those that are proper in  
every kind of cause.*

SOME illustrious authors are of opinion that the only duty of an orator is to instruct. They thought that moving the passions ought to be excluded for two reasons; the first, because every perturbation of the mind is a disorder; the second, because it is not lawful to make the judge swerve from truth and justice, by admitting the impressions of fear, pity, anger, and other emotions; and because also, it is not only unnecessary, but even unbecoming a man to make it his study to please, when he should strive to gain his cause by force of argument. There are others, and more in number, who far from depriving the orator of the advantages of pleasing and moving, make notwithstanding his proper and principal duty to consist in proving what he advances, and refuting the adversary's arguments.

Howsoever the matter may stand, for I do not here intend to interpose my own opinion, this book will be extremely necessary according to the

notions of both parties, being intirely set apart for proving and refuting. To it must be referred what has been already said concerning pleadings at the bar, because neither the exordium nor narration have other use than preparing the judge; and because also an acquaintance with the states of causes, and other particulars above discussed, would be to no purpose, but with a view hereto. In fine, not one of the five parts which we made a pleading to consist of, is so essential to a cause, but may sometimes be set aside; but there is no litigation that does not require proofs. To proceed regularly therefore in so important a part, it will not be amiss to begin with general precepts, and afterwards descend to those that regard every kind of cause in particular.

## C H A P. I.

*Of the Division of proofs.*

*Proofs are either inartificial, or artificial. He first treats of the inartificial.*

ARISTOTLE distinguishes in the first place two sorts of proofs, in which he has been almost generally followed by all succeeding authors. Some of these are extrinsic to the subject, and independent of art; others result from the subject, or are rather what the orator produces out of his own fund. The first have been therefore called \* inartificial, and the second † artificial. Of the first, are prejudices, reports, tortures, writ-

\* ἀντιγυς.

† τεχνικος.

ten deeds or instruments, oaths, witnesses ; all which afford matter for most law-suits. But as these proofs in themselves hold nothing from art, they are therefore for the most part to be enforced or invalidated by the greatest powers of eloquence ; for which reason those seem to me greatly in the wrong, who would exclude them from being directed by precepts : yet, do I not therefore purpose to take in all that may be said for and against them ; for my intention is not to run into common places, an endless piece of work, but only to prescribe a certain way and method, which every one is to exert his abilities for executing, and also for inventing the like, as the nature of the litigated matter may require. No one can speak of all causes indiscriminately, if not of the past, much less of those to come.

## C H A P. II.

### *Of Prejudices.*

THERE are three kinds of prejudices ; the first, founded upon things, already decided in similar cases, and therefore better called precedents or examples, as the wills of fathers in regard to their children, either ratified or made void : the second, upon prior judgments relative to the cause, whence is derived the name prejudice or prejudged opinion ; such were the prejudices against Oppianicus, and those of the senate against Milo : the third upon sentences passed

on the same affairs, as in causes \* re-judged, when an appeal is lodged.

Prejudices are confirmed, either from the authority of those who have pronounced, or from the conformity of the affair with an adjudged case. They are refuted by contrary reflections, but seldom by invectives against the judges, unless manifestly culpable; for it is natural for a judge to confirm the opinion of another, and not to establish a precedent which may perhaps make against himself. We must therefore, if the matter can bear it, have recourse to some dissimilarity in the case, as no two causes are perfectly similar. If this cannot happen, and the cause is the same, whatever is found amiss may be laid to the charge of the counsel's neglect; or a question may arise on the inabilities of the condemned for having justice done them; or the ascendant of the adverse party may be alledged over the witnesses by bribe

\* It is necessary to clear up the obscurity of this passage, by obviating some particulars of the Roman laws. The first instance regards the laws of banishment, admitting the distinctions of *relegatio* and *deportatio*. The import of the former was a prohibition against residing, or being, or appearing in a certain place: of the latter, when one was banished or transported into a certain place. According to Ulpian, the cause of transports might again be brought to a new trial; and if the sentence against them was rescinded, they were re-instated in their former degree of honour.

The second instance is upon the meaning of *assertio*, which was a judgment passed upon any one's liberty, whence it was denominated a liberty-cause, *causa liberalis*. If therefore judgment had already passed, and it was appealed from, or there was a new bench of judges chosen by lot for re-hearing the cause, the prejudged opinions were then to take place, to be examined into.

The third instance in the text regards the *centumviri*, who took cognizance of causes in the forum, where two spears were erected, each division having its judgment seat near its spear.

or

or otherwise; or they may have been influenced by passion, or ignorance; or lastly, some intervening incident may have changed the state of the cause. If nothing of all this can take place, it may at least be remonstrated, that in all times there have been examples of iniquitous judgments; as, on one side, \* Rutilius condemned; on the other, Cataline and Clodius acquitted. The judges also may be intreated to examine into the affair themselves, and not suffer themselves to be biassed from the † judgments passed by others. Against decrees of the senate, or edicts of the prince, and of magistrates vested with supreme power, I see no remedy, unless by proving that there is some difference in the case; or that a later decree, and equally in force, runs counter to the former. But if a resource of this kind should fail, the cause must unavoidably be given up.

\* Rutilius, one of the greatest men of his time, governed Asia with all possible integrity. But for suppressing the rapine and extortion of the publicans, was represented by them in so bad a light to the Roman knights, who were judges in the cause, that they sacrificed him to their resentment, and banished him. See Flor. l. iii. c. 17.

Cataline, in quality of prætor, administered Africa, and was afterwards accused of extortion, but acquitted by the faction of the nobles.

Clodius, a bitter enemy to Cicero, after having unsuccessfully crossed his return from banishment, strove to injure him by many acts of violence, which were a just cause of accusation, and this accordingly was undertaken against him by Milo, tribune of the people, who was Cicero's friend; but Clodius being created ædile, by means of the opposite faction, his post protected him from the pursuits of Milo.

† The judges made oath that they would judge according to law. They were therefore to be admonished, that mindful of the obligations of their oath, they would diligently examine into the matter themselves, and not rashly abide by the judgment of those, who by not having thoroughly considered the affair, might perhaps have passed a wrong judgment.

## C H A P. III.

*Of Rumour and Fame.*

ONE party may say, that fame and reports obtain credit in the town, and are, as it were, a public testimony; the other, that they are but idle stories spread abroad without any certain author, to which malignity gave a beginning, and credulity an increase; and that the best and wisest are often liable to be imposed upon by the artifices of enemies. Examples will not be wanting on both sides.

## C H A P. IV.

*Of Tortures, or putting the Question.*

THE same observations are applicable in regard to tortures; because, if there be reasons for, there are also against them; one contending, that the question is a necessity for confessing the truth; the other, that it is often a means for averring what is false, torment making lying easy to some, and weakness making it necessary to others. There is no manner of occasion to enlarge farther on these particulars. The orations of both the ancients and moderns abound with common places on this head. Yet, in this respect, some considerations may take place, as peculiar to every suit at law. Is the question to be put? It will be extremely necessary to examine, who requires it, against whom, and upon what account? If it has been already put, it may

may be asked, who superintended it, who the criminal was, and what kind of tortures he suffered? Whether what he declared was credible or consistent with itself? Whether he persevered in his first confession, or pain made him alter any thing in it, and whether this was in the beginning, or as the torments increased? The multiplicity of circumstances that herein occur, are as great as the variety of the things themselves.

## C H A P. V.

*Of Instruments.*

\* **I**NSTRUMENTS afford often likewise matter for disceptation, it being usual to contest their authenticity, and charge them with being forged. But, as ignorance may here bear a great part, or motives of dishonesty may influence those who have signed, it will be more adviseable to suppose nothing but ignorance, because fewer persons will be included in the accusation. This, however, depends on the nature of the cause and the instruments to be produced, as whether such an act and deed be not against all appearance of truth; or whether, as it often happens, it be not made void by some other proof equally unartificial: Again, if he, to whose prejudice it was signed, or one or other of those who signed it, were not absent or dead before it was signed; or if also

\* By the word *tabulæ*, rendered *instruments*, is understood all deeds in law, contracts, articles of agreement, notes, bills, bonds, wills, &c. They were to be made in the presence of many and sufficient witnesses, who by their signatures attested their authenticity.

the dates disagree, and there is any thing contradictory in the preceding and subsequent articles. Often inspection alone is sufficient to discover a character of falsehood.

## C H A P. VI.

### *Of Oaths.*

THOSE engaged in a law-suit, either tender their oaths, or will not accept of the adversary's when tendered; or they require an oath from the adversary, or refuse their own when required.

To tender one's oath without requiring that of the adversary, is most commonly odious; and he, who does so, ought to be confident of his integrity of life, that it may not be presumed he is capable of perjuring himself; or he ought to shew a due sense of the obligation on religious motives, in which he will obtain more credit, if he appears not too earnest, and yet not unwilling; or if the cause be such, that none could believe he would on so trivial an occasion imprecate so much evil to himself; or, if capable of gaining his cause by other means, he adds over and above his oath as a signal testimony of a good conscience.

He that will not admit the adversary's oath, may say, that the condition is unjust, if one's safety is to be made dependent on it. He may also alledge the little regard many pay to the sacredness of an oath, here instancing in some philosophers who denied a providential care in the gods over human affairs. Add to this, that who-  
ever

ever is ready to swear without being urged to it, ought to be greatly suspected of making himself judge in his own cause, and withal of making slight of so solemn an act.

He that requires an oath from the adversary, seems to act modestly, by making him arbitrator of the suit. This will also be agreeable to the judge, as delivering him from the apprehension of being deceived, and helping him to acquit his own conscience in the matter. Besides, the adversary can hardly refuse his oath, unless perhaps upon making it to be believed he has no exact knowledge of the transaction; and if this excuse should fail him, then the other's only resource will be to hint, that the adversary strives to make him odious; that in a cause wherein he cannot get the better, his last shift is to complain; that even a bad man would readily accept this condition; but that for his part, he chooses to prove what he asserts, that none may entertain a doubt of his having perjured himself. . .

## C H A P. VII.

### *Of Witnesses.*

THE most embarrassing circumstance in a pleader's business is the depositions of witnesses. These are delivered by word of mouth, or in \* writing.

\* They who gave testimony in writing, did it in presence of many, who signed their names at the bottom of the deposition.

Written depositions are more easily invalidated, as it may be thought that a man is less ashamed to betray the truth in the presence of the few that signed his deposition, and as absenting himself may well be imputed to some diffidence. But if he cannot be reprimanded in person, at least those who signed may be brought into disrepute. There is also a sort of tacit censure on all the parties concerned, because no one gives his testimony in writing, but of his own pure will, and the very act argues that he is no friend to him against whom he deposes. The orator, however, will not immediately yield to these reasons, as a friend who speaks for a friend, and an enemy who declares against an enemy, may both speak truth, if otherwise men of unquestionable veracity. This then will be a common place on which both parties may expatiate and exert themselves.

But the contest is smart and warm when the witnesses produce in person their evidence, two orders of battle being then drawn up, the one of set \* speeches, the other of interrogatories, either for or against them. In these speeches the orator first speaks in general terms, either in favour, or to the disparagement of the witnesses. This too is a common place, one party contending that there cannot be a more irrefragable proof than that which is grounded on the certain knowledge of men; and the other, on the contrary, making appear that this pretended knowledge is subject to gross errors. The orator secondly, descends to particulars, and forms an attack upon several wit-

\* By *actiones* Quintilian means a continued or set speech which the orator uses.

nesses at once. It is well known how some orators had baffled the testimony of whole \* nations, and set at nought an intire class of witnesses, as those who depose from mere hearsay, improperly deemed witnesses, because only relating the sayings of persons not sworn to declare the truth. Thus, in causes of extortion, they who swear money had been given by them to the accused, are rather parties than witnesses. Sometimes the witnesses are separately refuted; and this we find in most pleadings to be an invective accompanied with defence, or a discourse apart, as that of Cicero against Vatinius.

Having undertaken to instruct in as ample a manner as possible the orator, a thorough discussion of this whole matter will be necessary; otherwise it would be sufficient to read the two books written on this subject by Domitius Afer, a gentleman, whose acquaintance I had the honour to cultivate in earlier life, and from whom, besides the reading of his writings, I learned the better part by word of mouth. He gives this undoubted precept, that herein the principal duty of an Orator is to be versed in the whole cause, which indeed extends to every particular, and how this may be effected, I shall shew in the † place set apart for this purpose. It is this knowledge that suggests matter for interrogatories, furnishes weapons at hand, and informs us of the temper of mind we should put the judges in; and the

\* Cicero in his oration for Fonteius makes slight of the testimony of the Gauls; and in that for Flaccus, of the Greeks and Asiatics.

† Book xii. c. 9.

credibility of witnesses should be occasionally enforced or lessened, because we generally consider an evidence, according as before-hand we have been disposed to believe or not believe it.

And as there are two sorts of witnesses, voluntary, or cited to appear, the first employed by both parties, the second allowed only to plaintiffs; let us therefore distinguish the duty of him who produces witnesses, from that of him who refutes them.

He who produces a voluntary witness, may know what he has to say, and therefore it will be easy to question him; but this too requires a judicious and nice forecast, to guard against his being timid, inconsistent, and indiscreet. It is usual with the advocates of the adverse party to intimidate witnesses, to confound their ideas, and to draw them into snares, which should they give into, their indiscretion would hurt more, than the consistency and intrepidity of others could be of service. They ought therefore to be previously cross-examined in private, and tried by a multiplicity of questions, such as the adversary might put to them. So it will happen, that they may be either made consistent with themselves, or if they should chance to stumble, a seasonable hint or word would replace them in their byas.

As to witnesses seemingly more confident, we should be greatly on our guard how we trust them, being often suborned by the adversary, and when brought to the test, saying quite the reverse of the mighty matters they promised. In this manner they become so much the more dangerous, as they retain all the authority of a sincere confession.

feſſion. We muſt therefore diligently examine into their motives for declaring againſt the adverſary. It is not enough that they have been enemies, but whether they have ceaſed being ſo, and have not fought a reconciliation at our expence; whether they have not been bribed, and whether repentance has not made an alteration in their ſentiments. Theſe reflections will not be amiſs, when even the debate regards things which the witneſſes know to be true; but the precaution will be much more neceſſary, when they promiſe to ſpeak againſt \* truth, being in this caſe more ſubject to repent, more treacherous in their promiſes; or if they keep their word, more liable to be detected, and to betray themſelves.

The witneſſes, which are cited to give evidence on a trial, may be favourable or otherwiſe to the defendant; and the plaintiff may ſometimes know how they ſtand affected, and ſometimes not. Let us ſuppoſe he does. In both caſes, he that takes upon him their examination, ought to be extremely cautious how he proceeds. If he has got a witneſs intent on hurting his client, he muſt be aware of ſuffering his animosity to appear in him. For this purpoſe he muſt not queſtion him immediately on the main point of the debate, but come to it by little and little, that what he has the greateſt paſſion to ſay may ſeem forced from him; neither muſt too many queſtions be put to him,

\* Quintilian ſeems here not to reject the teſtimony of thoſe who promiſe to aſſert what they know to be falſe, which would be incompatible with the character of an honeſt man to countenance; but he ſhortly after adviſes, that he mentions theſe ſinifter arts, not to encourage, but that all may decline being any wiſe concerned in them.

left his readiness to answer might raise a suspicion of his credibility, it being enough to \* know from him all that need be reasonably expected from a single witness.

In regard to a witness who may reluctantly declare the truth, the greatest success the examinant can aim at is to extort it from him. This cannot be compassed any other way, than by beginning the interrogatory upon some distant matter. He will answer so as to imagine he does not prejudice the cause, and from his confessions will be reduced to such straits as not to be capable of denying what he is unwilling to declare. For as in a pleading we often recapitulate the scattered arguments, which singly may not seem to press hard on the defendant, but in the aggregate strike home to evince the fact; so a witness of this sort being asked many questions concerning the circumstances of time, place, person, what happened before and after, and the like, will at length be drawn into some answer, which shall compel him to discover what we are desirous to know, or to contradict what he has already said. Should he be so on his guard that neither happens, it is then manifest he is not willing to confess any thing, and consequently must be led out of his byass, and detected in something even foreign to the cause, from which he cannot well extricate himself. Here he is to be detained as long as may be convenient, that his affected earnestness of exculpating the defendant might deprive him of all be-

\* We must not ask from him all the particulars of the controversy, but only what may be to our advantage, reserving the rest for other witnesses.

lief,

lief, and thus he will do him more hurt than if he had told the real truth.

Supposing now the plaintiff ignorant of what the witness intends to depose, according to what has been observed in the second place, he will endeavour to sound his thoughts, and by a chain of questions lead him insensibly to what he aims at; but as witnesses are sometimes so artful, as first to answer as one would wish they should, in order to say after with more authority whatever they please, the plaintiff then suspecting their design, must dismiss them before they have time to do him a prejudice.

As to the interrogatories to be put by the defendant's advocate, they are partly of a more obvious nature, and partly more difficult. More difficult, because it can seldom be ever known before trial what the witness intends to say. More easy, as knowing what he has said, before he is cross-examined. Therefore in respect to what is uncertain, a diligent inquiry will not be amiss into the witness's character, and his motives of enmity against the defendant; and the advocate in his pleading will enter into several reflections which he must insist on, to shew that the witnesses are persons, influenced by hatred, envy, power, or money. If the adverse party has not a sufficient number of witnesses, he will set forth their insignificancy; if too great a number, he will observe that such a multitude argues something of a cabal or conspiracy. If they produce poor mean people, he will say, they have been gained over by a bribe; if men in power, that their design is to crush us by their interest. It will, how-

ever, avail more to explain their reasons for acting against the defendant, which are various, according to the nature of the matter contested, and the parties concerned. The adversary answers all these allegations in his turn by like common places. If he produces but few witnesses, it is because he contents himself with those whom he knows to be acquainted with the fact; if mean and obscure persons, he takes them as they are, and in this his integrity triumphs; if many in number, or persons of consideration, none can doubt but that this adds weight to his cause.

Witnesses are sometimes commended or discredited, by either mentioning their names, or \* rehearsing their depositions in the pleading. This practice was more in use, and easier formerly, when it was customary not to examine them till the cause was pleaded on both sides. What may be alleged against any one of them in particular, is deducible only from their own person.

There are other conditions of the interrogatory, and the principal is, to have a knowledge of the nature of the witness. If timid, terrify him; silly, lead him into a deception; passionate, thwart him; ambitious, puff him up; tedious, make him more disgustful by prolixity. But if the witness should be found prudent and consistent with himself, he is either to be set aside instantly, as an obstinate enemy; or is to be refuted, not by questioning him in form, but holding some short

\* Some commentators think that *citatis* should be here read instead of *recitatis*; and thus the sense may be, in order to refute a witness, when we cite him before the judges, or only name, not compelling him to appear before them.

dialogue with him : or, if possible, his ardour is to be cooled by some pleasantry ; and if some handle can be made of vicious conduct in life, he may on that account be charged home, and branded with infamy. Honest and modest witnesses should meet with mild treatment ; for often proof against rude behaviour, they relent by affability and complaisance.

Now every interrogatory is either in, or out of the cause.

If in the cause, as I directed in regard to the plaintiff, let his advocate, to avoid being suspected, begin the examination somewhat higher up, and by collating the first answers with the latter, he may bring things to the pass of his being able to extort something to his advantage. This is not learned by any instruction or exercise practised in schools, but must be intirely the result of the advocate's natural sagacity and experience ; but if an example for imitation need be pointed out, I can propose nothing better than the dialogues of the Socratic philosophers, especially of Plato, in which the questions are so apposite, that though the respondent has very plausibly acted his part, yet he finds himself obliged to draw conclusions quite wide of what he intended. Some inconsistency also may chance to escape the witness, and what happens oftener, he may not agree with other witnesses : by therefore artfully cross-examining him, he will be caught in something material, which otherwise might be merely the effect of chance.

Out of the cause there are likewise many interrogatories, which may be of service. A witness is examined concerning his own life and conversa-

tion, and the character of those who depose with him; as whether they are not noted for some infamy, or are persons of mean condition; whether they are friends of the accuser, or enemies to the accused. In all these particulars they may either say something which the advocate may avail himself of, or he may detect them in a lie, or he may hit upon something, plainly shewing their propensity to do all the mischief they can. Still the interrogatory ought to be very circumspect; for a witness often gives many shrewd answers to the disparagement of the advocates, and his pleasantries are well received. Add to this, that the questions ought to be conceived in the most simple and and familiar terms, that the questioned, who is often ignorant, may easily understand them; for if he should pretend the contrary, the interrogatory would of course appear cold and silly.

As to the base artifice of suborning a witness, and making him sit on your adversary's side, that upon a hint thrown out to him, he may rise suddenly, and either give evidence against him, or, seeming to speak in his favour, may afterwards designedly behave in an immodest and petulant manner, to destroy his own testimony, and that of others: this base stratagem, I say, I here only mention, to recommend its being avoided.

It often happens, that on one side the declarations, on the other the witnesses are found to disagree. From this collision arises another commonplace, each treating it according to their notions. The witnesses insist upon their oath, and the declarations are supported by the assent of those who signed them. A like dispute occurs too in regard

to

to witnesses and arguments. In behalf of witnesses, the advocate urges the certainty of their depositions, the sacredness of oaths, and makes appear that arguments are only the work of mens wit. The adversary answers, that witnesses are liable to suffer themselves to be corrupted; that often favour, fear, money, resentment, hatred, friendship, ambition, influence them to speak; but that arguments are drawn from the very nature of things; and that a judge, who lays a stress upon witnesses, believes on the faith of another, whereas he who determines from substantial proofs, believes only himself. These questions are common to a great number of causes, and have been, and will always be agitated. Sometimes there are witnesses on both sides, and then the question either relates to their persons, as “which are the better men?” or their depositions, as “which have said the more credible things?” or lastly, the question regards the contending parties, as “which side is more favoured with the good wishes of the public?”

If any one should choose to add hereto whatever goes under the denomination of divine testimonies, as supernatural answers, oracles, presages, it may not be improper to know that there are two ways of treating them: the one general, on which there is a perpetual dispute between the Epicureans and Stoics; as “whether the world be governed by providence?” the other particular, which discusses the merit of every species of divine testimony, as any of them may make a part of the question; for the credibility of oracles is not asserted or refuted as that of augurs, aruspices, inter-

preters of dreams, and astrologers, because all these constitute so many different species.

Words, which escape persons in wine, in madness, or during their sleep, and discoveries grounded on the relations of children, are also a sort of testimony variously maintained and contested by both parties. One alleges, that there is neither fiction nor artifice in evidences of the kind; and the other, in opposition says, that there is neither reason nor discernment.

The importance of proofs deduced from the authority of witnesses is such, that we may not only employ them to advantage, but can even require them when wanting to the adversary. "You paid money; who received it? before whom did you settle the account? when, and how?"—"You accuse me of the crime of poisoning; where did I buy the poison? from whom? for how much? whom did I employ to give it? who were my accomplices?"—Cicero discusses all these circumstances in his oration for Cluentius, who was charged with that guilt.—Thus far, I have spoken of unartificial proofs in as brief a manner as I well could.

## C H A P. VIII.

*Of artificial proofs.*

*There are three sorts of this kind of proof, consisting of signs, arguments, and examples. He blames some, who making slight of proofs, by which causes are braced, as it were, with nerves, rather choose to make excursions into common places.—He subjoins a general division of all proofs.*

THE second sort of proof, which is altogether artificial, and consists of things proper to enforce credibility and conviction, is most commonly either intirely neglected, or very superficially touched upon by those, who, frightened at the rough horrid visage of arguments, sit indolently down amidst the flowers of agreeable common places; thus resembling the people described by poets, who captivated by the melody of \* Syrens, or the sweetness of a fruit tasted in the country of the † Lotophagi, choose rather to perish than renounce their fatal pleasures. Infatuated in like manner by a notion of empty praise, they lose the victory, which, however, ought to be the object of their best endeavours.

Common places in a discourse, are adopted for ornament sake, and as an auxiliary support to arguments: just so, flesh and skin in the human

\* See Homer, l. ix. Oyss.

† The Lotophagi were a people of Africa, so called from the fruit Lotos, which was an article of their food, and so deliciously flavoured, that whoever tasted of it, was desirous ever after of remaining in the country. Polybius, according to Athenæus, says that it had the taste of a fig.

body, clothe the nerves, in the good condition of which consists its principal strength. Should an orator have occasion to observe, that such an action was influenced by anger, fear, or avarice, he may enlarge a little upon the nature and effects of the passion. The same may take place when his subject is praise or dispraise, when he magnifies or diminishes an object, when he describes, deters, complains, consoles, exhorts. But all these exertions should have in view things, either certain, or of which we speak as certain. Neither do I deny, that there is something in pleasing, and much more in moving the passions; yet these are more efficacious, when the judge thinks he has had sufficient information of the cause, which he cannot have without hearing the matter argued, and knowing all the particulars that lay a sure foundation for judging.

Before I enumerate all the species of artificial proofs, I think it proper to observe that there are some things common to all of them, as there is no question but must regard a thing or person. Neither can there be any places for arguments without equally belonging to things or persons; and these arguments may be considered in themselves, or relating to something else. There can be also no proof but from antecedents, or consequents, or contraries, all which must be deduced from the past time, or the present, or the future. Besides, nothing can be proved, but from another, and that must be either greater, or equal, or less.

Arguments occur, either from questions, which abstracted from things and persons, may also be considered in themselves; or from the cause it-  
self,

self, when it furnishes us with some particular reason, arising from the nature of the affair in debate.

Of all proofs likewise some are necessary, others credible, others not contradictory ; and all are included in one or other of the four kinds that follow : as from the existence of one thing, I infer the non-existence of another ; “ It is day, therefore it is not night : ” or, from the existence of a thing, that of another ; “ The sun is over the horizon, therefore it is day : ” or, from a thing that is not, I infer a thing that is ; “ It is not night, therefore it is day : ” or, lastly, from a thing that is not, I conclude that another is not likewise ; “ There is no rational animal, therefore there is no man.”—From these generals, I shall now descend to particulars.

## C H A P. IX.

### *Of Signs.*

EVERY artificial proof consists of signs, or arguments, or examples. I am not ignorant that they are considered by many as making a part of arguments, and this was one reason I had for distinguishing them, because of their near resemblance to unartificial proofs ; for bloody cloaths, outcries, bruises, and the like, bear a sort of affinity to instruments in writing, reports, and witnesses, being not of the Orator’s invention, but brought to him with the cause. There is another reason for distinguishing them, because signs,  
if

if indubitable, are not arguments; and in such case nothing can be contested, there being no room for arguments but in something that is controverted. If the signs are doubtful, they cannot be called arguments, as standing in need of arguments themselves.

They are therefore divided into these two principal species, some of them being, as I said, \* certain, and others † doubtful.

The first, as their condition is unalterable, can hardly admit of being directed by precepts; for where the sign is infallible, no room can be left for dispute. This happens when it is absolutely necessary a thing should be, or has been; or, on the contrary, should not be, and has not been: supposing which, there can be no question but concerning the fact. . . .

The second, being merely probable, or ‡ not necessary, are not sufficient in themselves to take away doubt, but in conjunction with other proofs, may be very powerful.

Signs, called otherwise || marks, tokens, indications, vestiges, consist of some certain thing serving to mean and point out another, as murder supposed to be committed by seeing blood shed. But as a man's cloaths may be sprinkled with blood which has started from the slaying of a victim, or he may have bled at the nose, it does not follow he has committed murder for having bloody cloaths. Yet this mark, how insufficient, soever in itself, supported by other circumstances, will be a powerful testimony against the accused,

\* τεκμήρια. † σχημα. ‡ εικάζα. || σημεῖον.

if it should be proved that he was an enemy, that he was known to have threatened before hand, and was found in the place where the murder was committed. This accessory sign of bloodshed, makes therefore what in itself was suspicious appear with an air of certainty.—There are other signs, which both parties may equally avail themselves of, as spots and swelling, which may seem as well marks of indigestion as poison; and a wound in the bosom, may argue a man's making away with himself as well as another's slaying him.—Proofs of this kind may therefore take place on both sides, but are decisive only as far as otherwise well supported. . .

## C H A P. X.

*Of Arguments.*

I. *What an argument is.* II. *Of the places of arguments, which are deduced either from persons, or things.* 1. *He briefly touches upon whatever regards persons.* 2. *To things belong causes, place, time, powers or instruments, manner, together with definition, genus, species, difference, property, amotion, similarity, dissimilarity, contraries, contradictories, consequents, conjuncts, comparison.* III. *The nature of things will not admit of each species of argument being executed.—We must first consider what requires to be proved.—An example of a like cause.* IV. *What we should think of these places of arguments, and how we ought to use them.*

I. **I** Now come to treat of arguments, under which name I comprehend all that the Greeks call \* enthymemes, epicheremes, and demonstrations, terms indeed different, but not much different in signification. . . . As therefore an argument is a way for making good a proof, whereby one thing is concluded from another, and what is doubtful is confirmed by what is not; it is necessary there should be something in a cause which does not require proving, as it would be impossible to prove any thing, unless there was something certain, or something held for certain, to lend its credibility to what is doubtful.

\* ἐνθυμήματα, ἐπιχειρήματα, ἀποδείξεις.

The things we hold for certain, are first, the objects of our senses, as what we see and hear; such are signs. Secondly, things grounded on moral certainty from the common assent of mankind; as, "That there is a God; that parents are to be honoured." Next, things that have the sanction of laws, which, though their obligation, in the way of certainty, is not allowed of by all men alike, yet where received, they are established and authenticated by custom, which itself has often the force of a law. Lastly, things agreed upon by both parties, either as proved, or contradicted by neither. On this head, an argument may be thus formed: "The world is governed by God's providential care; therefore, in imitation of it, man, the divinity's vice-gerent on earth, ought to attend to the government of the commonwealth:" for from the world's being administered by providence, the inference is just for authorising the administration of the common wealth.

In order to handle an argument to advantage, the force and nature of all things, and what they are capable of producing, ought to be diligently studied and known. Hence arises the consideration of \* probabilities, which are of three kinds. The first implying a certainty, and commonly happening, as that children are beloved by their parents: the second, very credible, as that a man in good health to day, may live till to morrow: the third, not contradictory in its implication, as that a theft committed in a house, was by some one in the house. Concerning these proba-

\* *probabilia*.

bilities Aristotle in his second book of rhetoric, has been careful to examine into whatever may affect every thing and person, together with the agreement or opposition nature has placed between persons and things ; as, who are under the influence of riches, ambition, or superstition ; what are the things that receive the approbation of the good, and what are the pursuits of the bad ; to what the inclinations of warriors tend, and to what also of those who lead a country life ; how each thing may be avoided, and how it may become an object of desire ?

But I rather decline giving a detail of these matters, being indeed too comprehensive, though obvious to every one's understanding ; but if any one should desire to be more particularly acquainted with them, he may consult Aristotle. All probabilities however, in which the greatest part of argumentation consists, may be said to flow from these sources. Is it probable that a son should kill his father, or that a father would commit incest with his daughter ? But, on the contrary, it is probable that a stepmother would be guilty of giving poison, and a man of debauched life of adultery : again, is it probable, that such a person would have committed such a crime in the face of the world, or would have perjured himself for so small a bribe ? The reason of greater or less probability in these examples is, that all are distinguished by a peculiarity of character, according to which they act, and this commonly, though not always, otherwise the things would be indubitable, and not arguments.

II. I shall

II. I shall now pass to the \* places of arguments, though the just mentioned examples may seem such to some. I call places, not what is usually understood by common places, as on luxury, adultery, and the like; but certain repositories from whence arguments may be drawn. For, as all countries produce not all sorts of fruits, nor are proper for the inhabitancy of certain birds and wild beasts; and, as all kinds of fishes are not found in our seas, some of them taking up their haunts in shallows, and others in rocky parts, distinguished by their respective shores and regions: so any sort of subject cannot furnish materials for all sorts of arguments, and therefore they are not any where to be indiscriminately sought after. Thus might there be an open to continual mistakes, and we should labour to little purpose, chance being more our guide than an inquiry directed by reason. But if acquainted with the place, whence an argument originates, we should easily see whatever is contained in it.

I. Arguments therefore are often to be drawn from the person, all questions, as before mentioned, being reducible to things and persons. To things are incident cause, time, place, opportunity, instrument, manner, and other like particulars. All these many have undertaken to illustrate with examples, more especially the incidents regarding persons, but I shall only touch upon such of the latter as afford places for arguments.

These places are, birth: for children are generally believed to be like their parents and ancestors,

\* See Cicero lib. ii. de Orat. 162. 173. and in Topicis, 6. — 78.

and sometimes are hence derived the causes of their honest or scandalous lives.

Nation : for all nations have their peculiar manners, and the same is not probable in a Barbarian, Roman, or Greek.

Country : because there is some difference in the constitution of government, laws, and usages of every state.

Sex : as robbery is more probable in a man, and poisoning in a woman.

Age : because all degrees of age are characterized by what are suitable to them.

Education and discipline : as it is of some consequence by whom, and how every one is brought up.

Habit of body : because comeliness or beauty of person is frequently suspected of a propensity to lust, as is strength of rude carriage. The opposite qualities are differently thought of.

Fortune : the same is not credible in a rich and a poor man ; in one that has many relations, friends, and dependants, and in another destitute of all these blessings.

Condition : on which also some distinguishing mark is to be set ; for it much signifies, whether one is of an eminent or mean occupation, a magistrate or private man, a father or son, a denizen or alien, a freeman or slave, a married man or bachelor, a father of children or childless.

Passions and inclinations : for avarice, anger, mercy, cruelty, severity, and the like, determine often to the belief or disbelief of many occurrences.

The

The way of living : whether it be luxurious, frugal, or sordid.

Professions and occupations : the peasant, citizen, merchant, soldier, seaman, physician, think and act differently.

We should also examine in what light every one affects to be considered ; whether as rich or eloquent, just or powerful. Attention is paid also to what has been formerly said and done, it being usual from what is past to form a judgment of the present. . .

Some also make the name a matter of consideration in the person. He must indeed have a name, but it is seldom productive of an argument, unless given for some particular reason, as wise, great ; or has occasioned some scheme or project, as that of Lentulus, by engaging him in Cataline's conspiracy, because the sibylline oracles and answers of the aruspices promised supreme power to there of the name of Cornelius ; and he therefore believed himself the third after Sylla and Cinna, whom the prediction favoured, being likewise surnamed Cornelius. Eteocles, in a tragedy of Euripides, avails himself of the name of his brother Polynices, to characterize his vicious morals, which indeed may seem a very cold reflection. However, names furnish frequent matter for facetious remarks, which Cicero in his pleadings against Verres had sometimes recourse to.

These, or the like, may be adopted for the consideration of persons ; for I cannot enumerate all that can be said in this respect and others, contenting myself to shew the way to those who may desire to make further researches.

2. I pass over therefore to things, and as in them our actions have an immediate relation to persons, I shall treat first of these. Now every action admits naturally these questions, why, where, when, how, and by what means it has been done?

Arguments are then drawn from the \* causes of things done, or that may be done; the matter of which, called † differently by some, is divided into two genera, and each of these subdivided into four species. For the reason of doing a thing, is commonly in order to acquire a good, to augment, preserve, and enjoy it; or on the contrary, in order to avoid an evil, to be delivered from it, to diminish, or to ‡ commute it for some other not so great. Such motives are of great weight in all our deliberations; but the object of these causes is moral rectitude, whilst on the contrary, the deformity of actions proceeds from the false notions we frame to ourselves; and these false notions having their sources in things supposed to be good or bad, lead us into errors and the disorderly pas-

\* These causes are fourfold. Material, as Jupiter's candlestick, Verr. vi. n. 64.—Formal, as the thefts of Verres are exaggerated from matter and form, Verr. vi. 4, 72, 74, 124. Cicero proves that death is not to be dreaded from the nature of the soul itself: for Sext. n. 47.—That pleasures are to be avoided from the consideration of the dignity of the human mind, De Offic. i. n. 105, 106.—Efficient, pleasure is the cause of many evils: de Senect. n. 39. † 1.—Abundance in the productions of the country, a cause of pride, Agr. ii. n. 94. Verres the cause of all the wickedness committed by those employed under him, Verr. iv. n. 26.—Final. Peace the end of war: Philip. vii. n. 19. and a preservation against servitude; Philip. viii. n. 12. Cicero presses hard Tubero from the end of taking up arms against Cæsar, for Ligar. n. 9.

† *id est, deceptum.*

‡ As when death is changed into banishment.

sions

sions of anger, hatred, envy, lust, ambition, audaciousness, and the like. Hereto are sometimes added the causes called accidental, as drunkenness, ignorance, which are occasionally used to extenuate or aggravate a crime, as if it was said that a man lying in wait for his enemy, killed another. . .

Arguments are drawn too from the consideration of the \* place; for an action is more or less probable according to the situation of the place where it is said to have happened; as whether it was a mountain or plain, maritime or inland, cultivated or waste, frequented or desert, near or distant, favourable to the design or against it. We see with what earnestness Cicero insists on this circumstance in his oration for Milo; and indeed it is so important, that it not only seems decisive in causes where the state is conjectural, but may form a question of right, as whether it was a private or public place, sacred or profane, belonged to us or another. The same may be said in regard to the quality of the person, as whether a magistrate, father, or foreigner, whence questions may arise, as " You stole the money of a private person, but it was out of a temple, and therefore you stand guilty not of theft, but sacrilege." . . Place is also of great moment for determining the quality of the fact, the same being neither lawful, nor equally becoming every where. It is besides necessary to examine under what constitution of government the question is to be decided, as every country has its peculiar laws, customs, and man-

\* In regard to the place, Cicero may be consulted, as *Aggr. II. n. 94. Pro Mil. n. 53. Philip. II. n. 63, 104, 105.*

ners. Sometimes the circumstance of place is enough to enhance the merit of a person, or to make him odious. On this account, Ajax exclaims in Ovid, "Great Gods! what injustice! we plead the cause before our fleet, and shall Ulysses be put in competition with me?" Milo's crime, among other circumstances was aggravated, for having slain Clodius amidst the monuments of his ancestors.

\* Time, as well as place, is of consequence for the purpose of enforcing an argument, . . . being often used in the demonstrative and deliberative kinds, and very frequently in the judicial; because it not only establishes many questions of right, distinguishes the quality of the fact, and is of singular advantage to conjectural causes; but is sometimes also productive of incontestible proofs. Thus, in a case before mentioned, if the authenticity of a written instrument is questioned, the date of which is posterior to the death of the person, said to have signed it; or, if one, accused of a crime, makes appear that in the time he is supposed to have committed it, he was but a child or not even born. This place may easily be made to extend to most arguments, as proceeding from either what happened before, or accompanied or followed the transaction. From antecedents; you threatened death, you went out by night, you got before him on the road to wait his coming. From adjuncts; noise and cries were heard. From consequents; you hid yourself, you ran away; the body appeared bruised and swelled. . .

\* For examples of the circumstance of time, see Cicero pro lege Manil. n. 35. Pro Cœl. n. 2. iro Mil. n. 49. 52.

\* Powers or abilities are likewise to be considered, more especially in causes the state of which is purely conjectural; for it is more probable that a greater number has prevailed over a smaller than otherwise; that strength has defeated weakness, and vigilance and precaution neglect and security. This place is of great importance in deliberative matters, and in judicial it commonly has two questions in view; as, Was it the party's intention? Could he do it? For the hope of success determines often the will; and hence this conjectural point so well discussed by Cicero. "Cicero way-laid Milo and not Milo Clodius, which sufficiently appears from his being attended with stout servants, himself on horseback, without any embarrassment, and ready for the attack; whilst Milo was incumbered with a train of women, rode in his carriage, and was wrapped up in his great coat." With the power may be joined the instrument used for executing a deed, whence sometimes arise signs, as the point of a sword or dart found in a man's body.

To all these is added the \* manner, whereby we examine how the action had passed; and this serves both to judge of the quality of the fact, and questions of right: as, if we should deny that the adulterer died by poison, when it was lawful to kill him by the sword. The manner also is applicable to a conjectural question; as if I said that such a thing must have been done with a good intention, because done openly; or with a

\* For powers or faculties, see Cic. pro Mil. n. 54. 55. pro Rosc. Amer. n. 74. and 92. 93.

† Manner. Pro Mil. n. 33 and 54. Pro Domo sua, n. 53.

bad one, because by ambush, at night, and in solitude.

But in all things, whose force and nature are to be examined into, and which we may consider in themselves, abstracted from persons and other constituents of a cause, three questions may likewise take place, as whether it be, what it is, and of what sort? Yet, as there are certain places of arguments, common to all these, they are not reducible to these three questions, and therefore should rather be subjected to the places they chime in with.

Arguments are drawn too from \* definition, in doing which two ways are observed; for the question may be either simple, "Is this a virtue?" or with a prefixed definition, "What is virtue?" This definition is sometimes general, as rhetoric is the art of speaking well; and sometimes special, as rhetoric is the science of inventing, disposing, and expressing well all the parts of a discourse, with a faithful memory, and a gracefulness and propriety of action. Sometimes it is the import of the thing defined, as in the foregoing examples, and sometimes it is only a name, of which the signification is explained.

Genus, species, difference, property, all places for arguments, are naturally subjected to definition.

\* Definition. Of liberty, *Parad. v.* Of true good, *Parad. i.* Of a rich man, *Parad. vi.* Of a city, *Parad. iv.* Of banishment, *pro Domo sua, n. 72.* Of punishment, in *Pis. n. 43.—17.* Of a popular man, *Agr. ii. n. 9. and 10.* Of the Roman people, *pro Domo sua, n. 89, 90.* Of a consul, in *Pis. n. 23.* Of history, *de Orat. l. ii. n. 36.* By affirmation, of the court, *pro Mil. n. 90.* By negation, of the nobles, *pro Sex. n. 9.* By both together, *Verr. v. n. 8.*

The \* genus is of little or no significance for proving the species, but serves greatly to refute it. From being a tree, it does not follow that it is a plane-tree; but what is not a tree, can never be a plane-tree; neither can what is not a virtue, be ever justice. To form then a good definition, we must descend from the genus to the last species. To say a man is an animal, is not enough, as animal is the genus. To say he is a mortal animal, argues a like deficiency, the definition being common to other animals; but by saying he is a rational animal, nothing will be wanting to complete the definition.

On the contrary, the † species affords a strong proof of the genus, and refutes it but weakly; for what is justice, is necessarily a virtue, and what is not justice, may be a different virtue, as fortitude, temperance. The genus therefore should never be removed from the species, unless all the species subjected to the genus, be also removed; as thus: "What is neither mortal nor immortal is not an animal."

Property and difference belong also to the definition. The first confirms, the second refutes it. Property is either peculiar to one thing alone, as speech and laughter to man; or to one thing always, but not only, as heat to fire. The same

\* Genus. The virtues of a general, pro Lege Man. n. 64, 67. Elogium of the Belles Lettres, pro Arch. n. 12, 20. Of the heinousness of parricide, pro Rosc. Amer. 62, 72. Of Greek witnesses, pro Flac. n. 9. Of Stoical, pro Mar. n. 61, 67.

† Species. The temperance of Pompey is commended from the principal species of temperance, pro Lege Man. n. 40. The wickedness of Piso is exaggerated from the species of cruelty, avarice, treachery, impiety, in Pis. n. 88, 94.

thing may also have many properties, as fire, heat and light. Therefore properties not agreeing with the definition, will make it faulty; yet, not every property agreeing with it, will make it better. The consideration of what is proper to every thing, gives rise to many questions; and hence if it should be said by etymology, that it is proper to a tyrant-killer, to kill a tyrant, I deny it, because an executioner, or another who kills him inadvertently, or against his inclination, cannot properly be called a tyrant-killer. But what is not a property, will be a difference, as it is one thing to be a slave, and another to be a servant, the latter being the condition of insolvent debtors; but the former, if set at liberty, becomes free, which is not the case of him whom the law delivers up to make satisfaction to his creditors in the way of serving them. . . .

There is a sort of argument deduced from amotion or removal, by which the whole is sometimes made false, and sometimes the proposition that is left, is the only that is true. The whole becomes false in this manner: "You say you lent money; then you either had this money yourself, or you got it from another, or you found it, or you stole it; but if not one of those particulars can be proved, it is plain you never lent this money." The remaining proposition becomes true, thus: "The slave, whom you pretend to be your property, was either brought up in your family, or he was your's by purchase or present, or he was left to you by will, or he was a captive, or he was the property of another." If none of the foregoing

going propositions can be proved, the inference will be in favour of the last.

But the genus in these divisions retains something of a dangerous tendency, and therefore ought to be inspected with care; for from the omission of one only species, the whole may dismissed as a subject of ridicule. It is safer to proceed as Cicero does for Cecinna, when he asks, "If this be not the point in question, pray what is?" He thus at once removes all the other species. There is another way of proposing two things contrary, of which it is enough one should be true, as in this example from Cicero: "No one can be so unjust to Cluentius, as not to agree with me, that if the judges were corrupted, they were so either by *Habitus* or *Oppianicus*. If I prove they were not by *Habitus*, it will necessarily follow that the guilt lies to the charge of *Oppianicus*; and if I convict him, of consequence *Habitus* must be cleared." . .

There is also a place for arguments from \* similarities; as if continence be a virtue, so also is abstinence. If a guardian ought to give security, so also ought an agent. . From † dissimilarities; if cheerfulness be a good, voluptuousness cannot be so likewise. If you may pay money to a woman, you cannot to a ward, or one in the state of ‡ pu-

\* Similitude. For proving, pro Cluent. n. 67. pro Mur. n. 4. pro Sext. n. 24 and 25. For ornament sake, pro Legibus Manil. n. 22. Philip. ii. n. 115. Philip. viii. n. 15.

† Dissimilitude, pro Mur. n. 19. 22. Pro Planc. n. 68.

‡ This example is taken from Cicero's *Topics*, and the sense of it is; if you can pay money to a woman without the authority of her guardian, you cannot to a ward or pupil. Women formerly were under a perpetual guardianship, and this is the reason of the example.

pillage. . From \* opposites; frugality is a good, for luxury is an evil. If war be the cause of calamities, peace will be their remedy. If that man deserves pardon who had no intention of doing amiss, it does not follow that the doer of a service unwittily is intitled to be rewarded. From † contradictories; he who is a fool, is not wise. From ‡ consequents, or adjuncts; if justice be a good, we ought to judge justly. If treachery be an evil, we must not deceive. .

I should think it ridiculous, unless Cicero had used them, to add to these what they call § conjugates, as that they who do a just thing, act justly; and that a common ought to be in common; for such indeed want no proofs,—

The arguments are called appositives or || comparatives, which prove greater from less, less from greater, parity from parity.

Conjectural matters may be proved by arguments from greater to less, as, he who is guilty of committing sacrilege, will make no scruple of being guilty of theft. From less to greater; he who tells barefaced lies will perjure himself. From parities; he, who took a bribe to judge contrary to justice, will do the same to bear false witness.

Questions of right may be proved the same way; from greater to less; if it be lawful to kill

\* Contraries, pro Cœl. n. 31. pro Cluent. n. 135.

† Contradictories, pro Cœl. n. 45. Philip. ii. n. 30, 31.

‡ Consequents, pro Mil. n. 61. pro Flac. n. 99. Catil. iv. n. 11, 12.

§ Conjugates, pro Marcel. n. 12.

|| Comparison is threefold. From greater to less, pro Mil. n. 16. pro Rosc. Amer. n. 131. From less to greater, pro Lege Man. n. 17. pro Planc. n. 26. From parities, Catil. i. n. 17. pro Sylla, n. 3, 5.

an adulterer, so also it is to whip him. From less to greater; if it be lawful to kill a thief in the act of breaking open your house at night, what must be said of a robber, attacking you in the day? From parities; the punishment justly inflicted on one who has killed his father, ought likewise to take place on the killer of his mother. These arguments are mostly conducted in the syllogistic way.

The following arguments are rather better calculated for illustrating definitions and the qualities of facts. If strength be not an advantage for bodies, health will be less so. If theft be a great crime, sacrilege must be a greater. If abstinence be a virtue, so also must continence. If the world be governed by providence, the commonwealth ought to be administered. If a house cannot be built without some reason, much less can a repository for naval or military stores. . .

Arguments therefore, in order to sum up briefly what has been said, are drawn from persons, causes, places, time, . . powers, (to which we have subjected instrument) manner, or the way every thing is done, definition, genus, species, differences, properties, removal, . . similarities, dissimilarities, opposites, contradictories, consequents, . . conjugates, and comparison, with its several species.

III. These are, I may say, the places for most sorts of arguments, which to treat in general would not be enough, each place bring of itself an inexhaustible fund; and yet to enter into a detail of them would be next to an impossibility, as appears from those who made the attempt, having

ing involved themselves in the two inconveniences, of saying too much, and yet not all.

Whence many others, by giving into these inextricable snares, and by being chained down and fettered amidst this multiplicity of rules and precepts, have lost all the efforts of their genius, and by the custom of looking back to the master, have ceased to follow the guidance of nature. For as it is not sufficient to know in general, that all proofs arise from persons or things, these two heads, being subdivided into many others; so also to know that arguments are to be deduced from what goes before, accompanies, or follows after, is of no great consequence, unless it helps us to find out what ought to be said in every cause, especially as many proofs are so intimately connected with the nature of some causes, as not to agree with any other; and such proofs are the most powerful, and yet the least obvious; from which it appears, that the use of \* common precepts is only for facilitating the finding of what may be suitable to each cause. This sort of arguments we may well call "circumstantial," as arising from † circumstances, or things serving to illustrate the nature of each cause. . .

We ought to be not less careful in proposing than in proving well what we propose. Here consists the excellency of invention, if not the greatest, at least the first. Missive weapons are of no ser-

\* The use of common precepts is calculated for no other purpose than to accustom us to find and enforce the arguments that are fitting and peculiar to every cause.

† *περίστασις*.

vice to him that throws them about at random, so are arguments, unless known to what they are applicable. This is what cannot be directed by art, and therefore though many have learned the same things, and adopt the like kinds of arguments, yet one will find more for useful purposes than another.

I shall here, for example sake, propose a controversy which has nothing common with ordinary questions. When Alexander had taken and sacked the city Thebes, he found a deed, purporting that the Thebans had lent the Thessalians a hundred talents; but the Thessalians having assisted him in the war, he cancelled in their favour the obligation of this debt. The city of Thebes being afterwards rebuilt by Cassander, the Thebans demanded payment of their hundred talents. The cause was referred to the decision of the \* Amphiſtyons. It is certain the Thebans had lent the hundred talents and were not repaid them. The stress of the whole process lay therefore on Alexander's remitting them the debt. It is also certain that he gave them no money. The question will therefore be, "Whether this remission of the debt is the same as if he had given them money?" Here the places of arguments will little avail me, unless I first consider, that the donation was of no effect, by reason of his inability to make it, and therefore that what he so remitted was in itself null and void.

At first the case may appear admissible and

\* The Amphiſtyons were supreme judges of all Greece. Their judgment seat was at Therapvix, and here all the people of Greece used to assemble on extraordinary occasions.

much in favour of the Thebans, who make a legal demand of what was forcibly taken away from them; but hence a stubborn and embarrassing question arises in regard to the right of war, the Thesfalians urging it as a right that maintains kingdoms, people, cities, nations, in their possessions. Some reasons must be alledged against them, which may argue some peculiarity in the cause of the Thebans, and shew that there is a wide difference between the condition of their contract, and other things that may fall to the power of a conqueror. The difficulty will then lie, not so much in the proof, as in the proposition; whereupon it may first be remarked, that in an affair submitted to the decision of a court of justice, the right of war cannot be well admitted into consideration; that what has been taken away from another by arms, must be retained by arms; and that where justice presides, force and violence must relinquish their claim, and so must justice her right when overpowered by violence. These particulars should be found, before arguments are applied, as suppose the following: "If captives can make their escape, and return to their country, they are again free, because the acquisitions of war must be retained by the same methods of violence." It is likewise an advantage to the cause of the Thebans, that the Amphictyons are judges in it, the form and solemnity of judgment being different in \* supreme and subaltern courts of justice.

In the second place it may be pleaded that a

\* Here Quintilian opposes to the Amphictyons the Centumviri at Rome, who in his time were constituted judges in great and public causes.

conqueror could not bestow a right he had not, that being his only in right of conquest, which he is really possessed of, whereas an incorporeal right can admit of no seizure. It is more difficult to find this proposition, than when found, to support it with proofs and reasons, as that the condition of an heir is different from that of a conqueror, because the right passes to the former, and the thing only to the latter. It may next be observed, that the right of a public loan could not pass to a conqueror, because what a people lent is due to all and every one of them, and due to all of these people who survived the war, and were reputed creditors of the whole sum: but all the Thebans did not equally fall into the hands of Alexander; a fact self-evident, and therefore requiring no proof.

In the third place, it may be made to appear by many arguments, that no immediate right is inherent to the written \* obligation itself. The intention also of Alexander may admit of a doubt, as whether he pretended to compliment or deceive the Thessalians? In another point of view likewise, yet peculiar to the cause, and forming a new question, it may be said, that though the Thebans might have lost their right, they recovered it in virtue of their re-establishment. Here too the intention of Cassander becomes a matter of consideration; but as the Amphictyons are to pronounce judgment, nothing will have so good an

\* It being of no significancy in equity, who are found possessed of it, so its purport is not contested, or its validity called in question; and here this cannot be but in virtue of Alexander's dispensation.

effect as a dissertation on natural equity, which with them outweighs all law-forms, and is commonly the rule of their decisions.

IV. I have not made these observations, as being of opinion, that the knowledge of the places arguments are drawn from, are unnecessary: if I had thought so, I should not have taken the pains to point them out. But I would caution those possessed of this knowledge, not to imagine themselves perfect and consummate, if they neglect other essentials; and unless in these, which I shall soon deliver precepts for, they endeavour to be thoroughly versed, they may depend upon it they have only attained a sort of mute science. There is no reason to fancy, that arguments have not been found but in consequence of rules and precepts: all have been rather the result of reflection and observation before precepts existed, and for them we are indebted to the collections since made by some accurate writers. A good proof of this appears from the examples quoted by them, which are all borrowed from the ancient orators. Themselves produce no new ones, nor any thing that had not been said before them. They were therefore the artificers who spoke them; yet are we not less obliged to those, who have smoothed the way for us, and lessened our labour. For whatever the first orators invented by the force of genius, their care has saved us the trouble of enquiring after, and all now are familiarly known to us. But this is no more enough than a bare acquaintance with the discipline of the Palæstra. To be practised therein the body must be prepared by exercise, continence, and a proper diet.

Still

Still all these helps to nature will little avail without a proficiency in the slights and dexterity directed by art.

The studious of eloquence should think, that the things we have demonstrated, cannot all be found in all sorts of causes, and therefore when the subject of a discourse is proposed, they are under no necessity of ransacking all the above specified places, and knocking, as it were, at their door, to see if perchance any might furnish the proofs they want. This would be adviseable on their first setting out, as they yet want experience; otherwise the adjusting the materials of a discourse would occasion infinite slowness in composition, more especially if they wanted to know by trial the fitness and agreement of each in particular. And indeed, for aught I know to the contrary, this multiplicity of precepts may be rather an obstacle than means to acquire eloquence, unless happy natural parts, and a facility exercised by study, conduct us directly to all that is suitable to a cause. A fine voice charms infinitely when it aptly keeps time with the sounds of a musical instrument, but it is better heard alone, if the hand be estranged from the art of accompanying and preserving the harmonical proportion. In like manner, the doctrinal precepts of eloquence should bear a sort of affinity to musical perfection. But this is not attainable without great exercise; for though the performers of pieces of music may seem to look elsewhere, and be otherwise intent, yet by practice and custom they execute without hesitation flats, sharps, and all other intermediate sounds; so this variety and abundance of arguments, far

from distracting the mind of the orator, will occur of their own accord, and of course their proofs will follow; just as letters and syllables flow without thought from under the hand of the writer.

## C H A P. XI.

### *Of Examples.*

**T**HERE is a third sort of extrinsic proof, applicable to causes, which is example, called by the Greeks παράδειγμα. . . It is a commemoration of a fact recorded in history, or of one commonly received, and of service to persuade what you intend. It must therefore be considered whether there be a similarity in the whole, or only in a part of it, that it may be made use of entirely, or only so far as it may serve our purpose. It is similar, as, Saturninus was justly put to death, so also were the Gracchi. Dissimilar: Brutus killed his own children for being traytors to their country, and Manlius punished with death the valour of his victorious son, because he fought contrary to orders. Contrary: 'the ornaments, which Marcellus restored to the people of Syracuse, when they were our enemies; Verres robbed them of, when they were our allies. These examples are equally calculated for proofs in the judicial and demonstrative kinds; and in the deliberative kind, which looks to futurity, nothing is so persuasive as instances of like things; as, if one saying, that Dennis did not so much require guards for the security of his person, as to tyrannize over his people, should alledge this example, that Pisistratus

tus

tus by the same means usurped the supreme power.

Some examples are intirely simlar, as the last cited ; and others are from greater to less, or less to greater ; as, if the violation of marriages has caused the destruction of states and cities, what punishment does not an adulterer deserve ? When our \* musicians deserted the city, they were honourably recalled by a decree of the senate ; by how much the more ought not the leading men of the city, and who have deserved well of the republic, be recalled from banishment, who in turbulent times have been obliged to yield to the machinations of envy ? Imparities are attended with good effect in exhortations : as, courage is more admirable in a woman than man ; so that if any one is to be excited to a brave action, the example of Horatius and Torquatus will affect less than of the woman, by whose hand Pyrrhus was slain ; and Lucretia will be a more illustrious example of resolute death than Cato and Scipio. These examples are from less to greater.

I shall give a distinct idea of these different kinds by examples from Cicero, for where shall I find better ? He justifies † Murena by his own example. “ It was my lot to sue for the consulship in competition with two patricians, the one notorious for his wickedness and effrontery, the other highly commendable for his integrity and modesty ; yet I prevailed over Cataline’s high rank, and over Galba, in credit and interest.”

\* Liv. l. ix. n. 30.

† Pro Murena, n. 17.

We have an example from greater to less in his oration for \* Milo. "Our enemies assert that a man confessing the guilt of killing another, is not worthy to behold the light. In what city would these ignorants set on foot this dispute? In that, indeed, where the first cause on a capital offence of this kind, was that of the brave M. Horatius, who pleaded guilty to the killing of his own sister, yet was acquitted by the assembly of the people, when even the city did not enjoy the liberties of a republican government." From less to greater. "I † killed, I killed, not Spurius Melius, who by spending his substance in largesses on the people in a time of a scarcity, was suspected from this beneficent act of aiming at making himself king; but I killed Clodius, (for Milo might confidently say so, having by so glorious an act delivered his country from danger) an infamous monster, who had prophaned our religious ceremonies by an accursed adultery."

Dissimilar examples become so various ways, by kind, manner, time, place, and other circumstances, all which Cicero has recourse to for destroying the prejudices against Cluentius. In this oration, from an example of contraries, he blames the conduct of the Censors, by commending that of Scipio Africanus, who when censor suffered a Roman knight to pass unnoticed in the review, though he knew him perjured in ‡ form, and

\* N. vii.

† Pro. Mil. 72.

‡ The ancients in swearing observed a certain form of words, and that they called *conceptis verbis jurare*. If any one taking such oath said what was false, he was reported to have perjured himself in form. The better to understand what is mentioned

would have given testimony himself against him, if any one had offered to prefer a complaint of him. I do not quote these examples in their own words, as being too long. But we may find a short example of contraries in Virgil :

Not so Achilles, whom with lying vaunt  
Thou call'st thy father ; he not so behav'd  
To Priam his foe : but rev'rencing the rights  
And faith of suppliants Hector's corps restor'd  
To burial ; and dismiss'd me to my realms.

TRAPP.

Sometimes the whole of a fact, as recorded in history, is related, which Cicero does in his defence of Milo : " A tribune of the army of Caius Marius, and that general's relation, having solicited a young foldier to condescend to his unlawful desires, the foldier choosing rather to hazard his life, than admit a shameful action, killed the tribune. The consequence was that Marius himself, that great man, pardoned and bore him harmless." Sometimes it will be sufficient to give a hint only of examples, as Cicero also does for Milo : " If it be not lawful to kill the wicked, we must then condemn Hala Servilius, P. Nasica, L. Opimius, and the whole senate, who in my consulship made no scruple of cutting them off." These particulars may be so mentioned as well

tioned in the text concerning the Roman knight, it will not be amiss to observe, that on the Ides of July, the Roman knights were mustered on horseback, and such of them as the censor intended to degrade and mark with infamy, he took their horses from them.

known, or as the advantage, or propriety of the cause may require.

The same may be said of poetical fictions, with this difference, that as they have less authority, they must meet with less credit; but the use they may be put to, Cicero, a great master in all respects, again shews us in his oration for Milo: Therefore, gentlemen, it is not without good reason, that learned men in apocryphal history have handed down to us the tradition, that he, who in order to revenge his father, killed his mother, the judges being divided in opinion on so extraordinary a case, was acquitted not only by the verdict of men, but also by that of a goddess, whom we particularly revere for her wisdom."

Fables likewise, attributed most commonly to Æsop, though Hesiod seems to be their original inventor, may serve for good examples, especially to country people and the illiterate, who willingly listen to simple fictions, and easily assent to whatever pleases their fancy. Thus it was that Menenius Agrippa is said to have reconciled the common people to the senators by the well known fable of the human limbs rebelling against the belly. And \* Horace we find did not make slight of the humble application of fables in his compositions.

Next to example, similitude is of most efficacy, and especially that which is drawn without any mixture of metaphors from things almost alike. Such is † this: "As in elections, they, who make a practice of selling their votes, are bitter

\* L. i. Epist. i. 5. 73.—Olim quod vulpes ægroto cauta leoni, &c. . .

† Pro Cluent. 75.

enemies of all candidates whom they think sparing of their money ; so these unjust judges came with a premeditated design to ruin the defendant." Comparison traces things somewhat higher up, and takes in not only the transactions of human life, which bear some relation to each other, as in Cicero for \* Murena : " If mariners, returned from a long voyage, have the kindness to inform others who are going to undertake the like, of the variety of winds, the haunts of pyrates, the shelves and rocks that are to be avoided, the nature of different harbours, and the difference of climates ; all men being prompted by a principle of humanity to favour and help those who are to engage in the same dangers they have already escaped themselves : so I, who after so many tempestuous blasts, do see myself on the point of happily making land, what sentiments ought I not to entertain for a man, who is just launching forth amidst the storms that now agitate our republic ?"—But also, extends to mute and inanimate beings : . . . as if the culture of the mind was proposed, you should use the similitude of a piece of ground, which neglected produces nothing but brambles and thistles ; but cultivated, charms with delectable fruits and flowers : or, if in counselling a proper regard for the commonwealth, you should shew that bees and ants, not only mute but little animals, labour for their common good. Cicero uses a comparison of this kind † where he says, that " a city without laws, can no more make use of its citizens, than a body without a soul can make use of blood,

\* N. iv.

† Pro Cluent 146.

nerves, and limbs." As he adopts this comparison of the human body for Cluentius, so for Cornelius he adopts that of horses; and for Archias, that of rocks and stones. There are other similitudes of a more immediate relation; as that an army without a general, is like a ship without a pilot.

The relations, however, of similitudes, sometimes lead us into mistakes, and therefore we should be cautious in their application. For though a new ship may be more serviceable than an old one, yet a new friendship is not therefore preferable to one of long standing; and if a woman be commendable for distributing her money in charitable donations to many objects of want, she will not in like manner be commended for imparting her favours. Here the import of the words is similar, but the application widely different. We should therefore carefully examine, if the inference be similar; otherwise these inductions will prove dangerous by unguarded answers, as was the case of Aspasia, Xenophon's wife, introduced as a respondent in a dialogue of Æschines, in which he imitated the Socratic manner of induction. "Prithee, tell me, thou wife of Xenophon, if a lady, your neighbour, was possessed of gold more precious in quality, and more in quantity than you are, which would you rather have hers or your own? Hers, answered she. And if her cloaths and other ornaments of dress, were of greater value than yours, which would you choose? Hers undoubtedly. But if she had a better or finer man to her husband, which would you prefer? Here Xenophon's wife blushed," and with good reason, for her

her first answer was a bad one, that she had rather have another's gold than her own, which was vicious. But if she had answered, she would rather have her own gold, such as it was, she could have answered consistently with the character of a virtuous woman, that her husband, such as he was, was more to her liking than any other. . .

To other extrinsic proofs is added authority, which some, in imitation of the Greeks, call \* judgments, not those pronounced on a cause, being rather properly examples and precedents, but the opinions of nations, people, wise men, illustrious citizens, poets, and others.

Certain sayings, confirmed by popular persuasion, are not also without their use in the way of testimonies, and even in some measure may wear a face of good authority, so much the more, as not inherent to causes, but rather the effusions of minds uninfluenced by prejudices of any sort, and therefore only said or done as appearing good or true.

If I speak of the miseries of this life, may I not make an impression on minds by mentioning the custom of some † nations, who weep at the birth of their children, and rejoice at their death? Or, if I recommend a person to mercy, will it be amiss to observe, that the wise republic of Athens, not only received it as a sentiment of humanity, but even as a deity?

Do we not repute the precepts of the seven wise men, as certain rules of life? Should a woman

\* κρίσις.

† Herodotus relates this of the Thrausi, a neighbouring people to Thrace. Lib. v. c. 4.

convicted

convicted of adultery be accused also of poisoning, will she not stand condemned in the opinion of Marcus Cato, who said that an adulteress is capable of perpetrating any crime ?

Add to this, that not only orations, but likewise the books of philosophers, abound with sentences from poets. The latter, though believing an inferiority in all things to their precepts and literature, yet have not thought it beneath them to give a sanction to their sayings by an apt quotation from poets. Of this there is a notable example, in the defeat of the Megareans by a \* verse from Homer, when they contended at law with the Athenians, on the right to Salamis. This verse, however, is not found in all copies of Homer, signifying that Ajax had joined his ships with those of the Athenians.

There are sentences, maxims, and proverbial sayings, the authors of which are not known, and therefore they are in every one's mouth : as, " Friends are as valuable as riches ; " " Conscience is equivalent to a thousand witnesses ; " " Like † associate with like." And indeed these would not have been perpetuated, did not all men equally find them true. . .

\* Plutarch in the life of Solon relates, that Solon inserted the latter verse, and by that means gained the cause. The verses of Homer are these, ll. B. 557.

Αἴας δ' ἐκ Σαλαμῖνος ἄγει δυοκαίδεκα νῆας  
 Ἐτῆσι δ' ἄγων ἐν Ἀθηναίων ἦσαντο φάλαγγες.

† Birds of a feather flock together.

## C H A P. XII.

*Of the use of Arguments.*

*An argument ought most commonly to have a known certainty, yet sometimes requires to be proved.—The strongest arguments are to be treated separately, but the weakest should be enforced in a body.—It is not enough to state the arguments, they ought to be helped.—Of the proofs which are drawn from the passions.—In what place the most powerful arguments ought to be used.—Against effeminate eloquence.*

THUS far have I discussed concerning proofs, all that I have known to be either delivered by others, or discovered by experience, to the present time. Yet am I not confident that they are the only ; and I would advise further inquiries, as others may still be found ; but such as may, I dare say, will not be much different from those I have enumerated. I shall now subjoin some cursory reflections on the manner of using them.

It is commonly laid down as a principle, that an argument ought to have a known certainty, as doubtful things cannot be proved by doubtful. We often, however, alledge reasons towards the proving of a fact, which want to be proved themselves, as if it should be said to a woman, " You killed your husband, for you was an adulteress." She must be first convicted of adultery, that the certainty of that crime might be a proof of the uncertainty of the murder. " You killed that man, for the point of your sword was found in his

his body." The identity of the sword must be proved to give weight to the assertion. Here it is necessary to observe, that of all arguments the strongest are those, which from doubtful are made certain. "You committed that murder, for your cloaths were bloody." If he confesses that his cloaths were bloody, the proof is not so forcible, as if he was convicted of it; for his cloaths might be bloody from a variety of causes. If he denies it, then the whole stress of the matter will lean to the denial, which if made void, conviction will follow of course; for it does not seem that he would have persisted in denial, unless he despaired of being able to defend himself by his confession.

If proofs be strong and cogent, they should be proposed and insisted on separately; if weak, it will be best to collect them into a body. In the first case, as persuasive of themselves, it would be improper to obscure them by the confusion of others, that they might appear in their due light; in the second, as naturally weak, they should be made to support each other. If therefore they are effective of no great matter in point of quality, they may in that of number, all of them having a tendency to prove the same thing; as if one was accused of killing another on account of inheriting his fortune: "You did expect an inheritance, and it was something very considerable; you was poor, and your creditors troubled you more than ever; you also disobliged him who had appointed you his heir, and you knew that he designed to alter his will." These proofs taken separately are of little moment, and common; but collectively, their  
 shock

shock is felt, not as a peal of thunder, but as a shower of hail.

Some arguments it will not be enough to propose barely, without displaying them in all their colours. If lust was the cause of the crime, its tyrannic sway over the will may be expatiated on : if anger, you may describe the excesses that passion often prompts men to. Thus your arguments will be more forcible, and withal will assume more comeliness, if they shew not limbs, meagre and destitute, as it were, of flesh. In attributing a bad act, suppose to hatred, it matters much whether the motive be from envy, injury, or ambition ; whether it be an old grudge, or of a late date ; whether it be to the prejudice of an inferior, equal, or superior ; of a stranger or neighbour. All these circumstances have their particular discussions, but must be directed to the advantage of the party we plead for.

The judge's memory, however, is not to be always loaded with all the arguments we may invent. They will create disgust, and beget distrust in him, as he cannot think such arguments to be powerful enough, which we ourselves do not imagine sufficient. But to go on arguing and proving in self-evident things, would be a piece of folly not unlike bringing a candle to light us when the sun is in its greatest splendour.

To these some add proofs they call \* moral, drawn from the milder passions ; and the most

\* Quintilian seems to have said *παθητικὰς path-ticas* for *᠄thicas*. Aristotle has written of *Ethics*, which are drawn from the morals of men, of which Quintilian here treats, as of *Path-tics* in his sixth book.

powerful in the opinion of Aristotle, are such as arise from the person of him that speaks, if he be a man of real integrity. This is a primary consideration; and a secondary one, remote indeed, yet following, will be the probable notion entertained of his irreproachable life. Whence that noble confidence of Scaurus in his defence: "Quintus Varius, a \* Sucronian, says that Æmilius Scaurus is a traitor to the Roman republic; Æmilius Scaurus denies it." Iphicrates is said to have behaved the same way in a like cause; for having asked Aristophon, his accuser, if he would betray the state for money; and being answered, no: "Well then, says he, what you would not do, I have." . .

It has been also a matter of debate, whether the strongest proofs should take place in the beginning, to make an immediate impression on minds; or at the end, to make the impression continue with them; or to distribute them, partly in the beginning, and partly at the end, placing the weaker in the middle, according to the † order of battle set forth in Homer; or lastly, to begin with the weakest, and proceed gradually to the strongest. For my part, I think this should depend on the nature and exigencies of the cause; yet with this reserve, that from powerful, the discourse might

\* He may so call him out of contempt, from Sucro, a river in Spain, as if a man of his insignificance should be reputed to have produced a testimony of any weight to the prejudice of a noble Roman, and of so illustrious a family, as he was of. See Valer. Max. l. iii. c. 7. n. 8.

† Nestor in Homer, ll. l. Δ. or 4. v. 297. places the strong in front, the weak in the middle, and the best soldiers in the rear.

not dwindle into nugatory and frivolous arguments. . .

So far for the use of arguments, and as to their repositories or places, I well know that I have not shewn them all, yet enough for necessary purposes. This too, I have acquitted myself of with so much the more care, as declamations, which were formerly a \* prelude and preparation for contentions at the bar, are now no longer expressive of their true image, being destitute of all appearance of manly vigour, by aiming at nothing further than merely pleasing the ear. . .

An auditory of corrupt taste and morals, may, indeed, if they so fancy, give their approbation to that emasculated eloquence ; but I shall always be of opinion, that there can be no such thing as real eloquence, unless it exhibits the manly and uncontaminated spirit, the character of the austere and virtuous man. When the most eminent painters and sculptors designed to paint or frame a beautifully proportioned body of a man, did they ever fall into the ridiculous error of taking for copy or model a † Bagoas or Megabyzus ? They rather made choice of a young ‡ man of good stature and comely form, equally fit for the exer-

\* *Præpilatis* in the text means unpointed or blunt spears, or capped with buttons, like our foils, which were used in the *Ludus Trojanus*, or the jults and tournaments practised at Rome.

† A name in the Persian language to signify a eunuch. Megabyzus was the favourite eunuch of Darius, and afterwards of Alexander.

‡ *Doryphoros*, *pikeman*, in the text : so the Greeks called a king's or prince's body-guards. They were commonly tall, and of accurate proportion in their shape. Polycletus framed a *Doryphoros*, which Lyfippus says was his master-piece.

cises of the palæstra, and the fatigues of war. Such only were the bodies they judged to be truly beautiful; and shall I, who have undertaken to form the Orator, furnish him with tingling cymbals, and not with weapons of execution?

Let therefore the young Orator, for whose instruction I make these remarks, accustom himself as much as possible, to copy nature and truth; and as in schools he often engages in sham battles, in imitation of the contests of the bar, let him even then have an eye to victory, and learn to strike home, dealing mortal blows, and putting himself on his defence, as if really in earnest. It is the master's business to require this duty, and to commend it according as it is well executed. For if they love praise to the degree of seeking it in their faults, which does them much harm, they will desire it more passionately, when known to be the reward of real merit. The misfortune now is, that they commonly pass over necessary things in silence, making little or no account of what is to the good of the cause, if it be not conducive to the embellishments of the discourse. These faults I have animadverted upon in \* another work, and shall often in this. Now I resume my prescribed order.

\* In a book, on the causes of corrupt eloquence, which is not extant.

## C H A P. XIII.

*Of Refutation.*

- I. *It is more difficult to defend, than to accuse.*
- II. *What the adversary has advanced against us, if it belongs to the cause, we must deny, defend, or plead a non-suit.—If it be foreign to the cause, we must cursorily refute it.*
- III. *Whether the refutation of many things should be attempted together, or each of them only in their turn.—It will be enough to deny what is palpably false.—We must strive to point out something which may appear either contrary to, or different from the cause, or incredible, or superfluous, or rather belonging to our cause.*
- IV. *Common places from conjecture, definition, quality.—Some things are sometimes properly made slight of.—In things like we must seek for something unlike.*
- V. *When the very words of the adversary ought to be quoted, or others substituted to them.—When the whole crime is to be exposed, and when only parts of it.*
- VI. *Of arguments that are called common.—Of those contradictory to each other.—Of some vicious forms of argumentation.*
- VII. *How opposite contradictions are to be refuted by us; and when the person of the advocate may be attacked.—He advises declaimers not to advance such contradictions as may be easily answered.*
- VIII. *The Orator should not shew too much solicitude concerning the defence of his party.—We must see to which party leans the stress of the cause.*

THE refutation has two different objects in view, either as it regards defence, which intirely consists in refuting; or the answering of

objections, which ought to be equally cleared up on both sides. It is properly assigned the fourth place in a cause, and its condition is always the same in either way of being employed. The arguments in it are drawn from the same sources as those in the proof; neither is there any material difference in thoughts, style, figures, manner, except that for the most part, it is more sparing in moving the passions.

I. It is not, however, without reason, as Cicero often acquaints us, that it has been always thought more difficult to defend than to accuse. The accusation is much more simple. There is only one way of proposing, but there are several ways of answering it. The accuser thinks it sufficient, if what he advances be true; whereas the advocate for the accused must deny the charge, or maintain it as lawful; must make it something else, or excuse, or deprecate punishment from it; must mitigate, lessen, or shew that it is not according to the due form of law; must despise, or turn it into ridicule: so that the pleading on his side, is almost always \* indirect, full of clamour and contention, and standing in need of a thousand turns, and all possible art. The accuser besides brings from home many particulars he has well studied and duly reflected on, which the advocate must answer, and frequently what he little expected. The accuser produces witnesses, and the advocate must invalidate the purport of their depositions. The accuser finds ample matter for def-

\* Because he does not directly, but indirectly make void the charge; and most commonly with great contention and bustle.

canting on the odium and enormity of the crimes he prosecutes, though this odium is in the main false, as in cases of parricide, sacrilege, high-treason, which the advocate can only deny. Orators therefore of middling abilities have been found sufficient as accusers, but the most eloquent only have been capable of conducting a defence. In short, to declare my real sentiments of this matter, I may say, that accusing is so much the more easy than defending, as it is easier to make than cure wounds.

II. In order to make a good defence, it will be extremely necessary to attend to the adversary's charge, and his manner of executing it. The first consideration ought therefore to be, whether that which we are to make answer to, belongs or is foreign to the cause.

If it belongs to the cause, it must be either denied, or defended, or proved defective in form of law. Besides these three, there is no other resource to get clear of a process; for supplication in the delinquent's behalf, which is without any shew of defence, very seldom takes place, and is used only before judges, not tied down to any certain forms of law; though the pleadings before Cæsar and the Triumvirate for those that had engaged in a different party, both recommend to mercy, and offer reasons to excuse their conduct, which appears from Cicero's vigorous defence of Ligarius: "Let us confess the truth, Tubero, what else did we seek after, than to have it in our power to do ourselves, what Cæsar has done?" If the affair should be before a prince, or other, who is under no controul in the judgment he may pass, we

may represent to him, that though the person we plead for is deserving of death for what he has done, yet his former merits intitle him to clemency; and here it must be a principal consideration, that we have to do with a judge, and not with an accuser, upon which account our speech should be more in the deliberative than the judicial order, using our best endeavours to persuade him to prefer the glory of a humane temper to the gratifications of revenge. In regard to judges, who are to pronounce according to law, it is clear that a crime confessed is a crime condemned, and therefore it would be ridiculous to give precepts about facts not contested. Therefore likewise, what cannot be denied, nor admit of the plea of any defect in form, must be defended such as it is, or we must despair of seeing our cause successful.

We have already shewn that there are two ways of denying, either that the thing has not been done, or was not done in that manner. Now, whatever is not defensible, nor defective in form, must be denied; not only, when by defining it we may change its nature, but even when no other resource remains but denial. If witnesses are produced, much may be alledged against them; if a written instrument, a forgery may be discovered by comparing the difference of the hand-writing. In fine, nothing is worse than confession.

When there is no room left for defending and denying, the last point that remains to be controverted in an action, is, whether it has been brought in due form of law? . .

If

If the adversary's allegation is foreign to the cause, and yet has some affinity to it, I should rather say, that it has nothing in common with the question, or is so trifling in its consequence, that there is no occasion for spending time about it. Forgetfulness too may be pretended by the advocate, which will be very \* pardonable in this respect, from the earnest desire that may appear in him for saving his party.

III. We should next consider whether it be more adviseable to refute the accuser's proofs all together, or after one another. Many are attacked together, if either so weak, that all of them may be made to yield to the same effort; or so troublesome, that it would be inconvenient to encounter them one by one. So circumstanced, we must charge the enemy by one general shock, and fight, as it were, with all our forces mustered in the front of battle. Still if we find a difficulty in overpowering the adversary's arguments, we may, at least, compare ours with his, to shew that the advantage, if any, lies on our side.

The proofs that are strong, collected in a body, as mentioned in the foregoing chapter, must be refuted separately: "You was his heir, and you was poor, and you was harrassed, and sued for large sums by your creditors, and you disoblighed your kinsman, and you knew that he designed to alter his will." These proofs, thus urged all together, press hard; but if you take them singly, the flame that was strong from its heaped up quantity of

\* The text is here obscure, and perhaps something is wanting in it.

fuel, will soon appear languid by dispersing the combustibles: just so, great and deep rivers branched out into streams, become every where fordable.

It would be proper to reflect with ourselves, which of these two ways would be more to our advantage, as then we may conform to it the proposition, which will accordingly be either general or particular. For sometimes it will suffice to collect into one proposition, all the adversary has made many of; as, if from his having enumerated the motives, which might have induced the accused to commit the crime in question, without discussing all these motives, we should say in general, that, because one had several reasons to do a thing, it does not follow he did it. However, in common, it will be best for the accuser to produce his arguments in an embodied state, and for the defendant to refute them singly.

It will be likewise necessary to consider how the refutation should be conducted in regard to what the adversary has deposed. If he has said any thing palpably false, it will be enough to deny it; as Cicero for Cluentius, who denies the person to have died the same day, whom the accuser averred to have died immediately after drinking the cup. As to things evidently contradictory, superfluous, and silly, no art is required for refuting them, and therefore I shall give concerning them, neither precepts nor examples. With these may be classed the sort of proof, called obscure, which is an act said to be done privately and without a witness. This must be naturally weak enough, as whatever the accuser advances and does not prove, can be of

no

no weight. The same may be said of things not belonging to the cause.

In all these cases, much will depend on the orator's ingenuity to make appear that something or other in the adversary's allegations, is either contradictory, or foreign to the cause, or incredible, or superfluous, or rather makes for his own. It was objected to Oppius, that he had enriched himself by savings out of the military provisions and subsistence; a crime of a heinous nature! But Cicero shews the contrary, the same party having accused him of a design to corrupt the army by his largesses. In an information read against Cornelius, a promise was made of the accuser's producing witnesses to convict him of the fact; but Cicero makes this unnecessary by granting, that Cornelius himself does not disavow it. Quintus Cæcilius was a postulant for being commissioned to be the accuser of Verres, because he was his quæstor; Cicero makes this very circumstance a reason for obtaining the commission for himself.

IV. All other things, which may not chime in with the directions hitherto given on this head, may be treated by the way of common places. For they are either discussed by conjecture, as whether they are true; or by definition, whether proper; or quality, whether dishonest, unjust, wicked, inhuman, cruel, and the like. . .

Sometimes it will not be improper to hold some objections in contempt, and consider them as trivial and no way pertinent to the cause. This Cicero does on several occurrences; and this air of contempt is so far attended with advantage, that

what must embarrass us to refute, we may scornfully, as it were, tread it under foot.

But as most of these arguments are deduced from similar instances, we should use our best endeavours to discover in them some dissimilarity. This is easily effected in matters of right. For, as the law has a diversity of objects to regulate, we shall in consequence the more readily discover the difference of things. It is easy to elude similitudes drawn from mute animals, or inanimate beings; but the examples of things must be variously treated, if to our disadvantage. The doubtful, we may call fabulous; the true, very unlike the case in question, it being hard to meet with two examples exactly similar; as if Nasica, for the killing of Gracchus, should be defended by the example of Hala, by whom Melius was killed. A disparity is observable in the intention of the slain, and the persons of the slayers. Melius aimed at nothing less than regal power; Gracchus had only enacted some popular laws: Hala was master of horse; Nasica acted in a private capacity. If all these resources should fail, we must then see to gain our point by pleading that the act was not lawful. The observations that hold good for examples, may also for adjudged cases.

V. What I added as a second precept, "That it was necessary to observe how the adversary insisted on each article of his accusation," deserves this notice, that for what he has handled in a weak manner, we may quote his own words; but that if he has displayed any thing in the force and vehemence of style, we must strive to soften it in milder terms, as Cicero does in his oration for

Cornelius. This too may be accompanied with a sort of defence; as in pleading for a debauchee, we may say, that indeed he is somewhat indulgent to himself in his pleasures; for a miser, that he is a good œconomist; for a malevolent satyrist, that he speaks frankly his mind. But we must guard against relating facts with the adversary's proofs, or setting them off in his colouring, unless when our design is to expose them to ridicule: "How, \* Muræna, you have been then so long with the army, and so long absent from Rome; and yet you come to dispute the honours and dignities of the republic, with those who have been always conversant with civil life?"

In contradictory allegations, the whole crime may be laid open to view, as Cicero does for Scaurus against Boſtar, mimicking, as it were, the manner of the adversary's accusation; or several propositions are joined together, and expressed in the adversary's words, as in Cicero for Varenus: "When he journied through fields and solitary places in company with Populenus, it is said, they fell in with the Ancharian family, and afterwards Populenus was killed; whereupon Varenus was instantly detained in bonds, till the accuser should declare how he would have him disposed of."

This observation will constantly hold good, when the order of facts is incredible, and likely to lose all belief by the exposition. Sometimes what in the whole may be hurtful, is refuted by parts; and this is commonly the safer way. There are examples also of inconsistencies in single propositions.

\* Pro. Mur. xxi.

VI. Some proofs lie in common to both parties, and the defendant may employ them to good advantage, as being rather in his favour. And indeed, as I often hinted, whoever first uses a common argument, makes it contrary; and it must be so, when the adversary can make good use of it. "It is not \* probable that M. Cotta ever thought of so villainous a thing; and if so, what face of probability is there that Oppius attempted the commission of it?"

But it is the connoisseur's business to discover in the adversary's pleading, whatever is, or may seem to be contradictory, which sometimes appears from the facts themselves; as when † Clodia says she lent money to Cælius, a sign of great familiarity; and again pretends that Cælius designed to poison her, a proof of the greatest hatred: or, when ‡ Tubero makes it a crime in Ligarius, to have been in Africa; and yet complains that he hindered his being admitted there.

The same also sometimes appears from some unguarded expressions of the accuser, and this chiefly happens to such as are overfond of ingenious thoughts. Regardless of what they say, provided they shew their wit, they only look to the embellishments of the present place, and so lose sight of what may be to the good of the whole cause. What in appearance could be a greater disparagement to the cause of Cluentius, than the mark of infamy set upon him by the Censors? What so much against him, as the act of Egnatius for disinheriting his son, because, in concert with

\* Cic. pro Oppio.    † Pro Cæl. xxxi.    ‡ Pro Lig. n. 9.  
Cluentius,

Cluentius, he had bribed the judges to condemn Oppianicus? Yet Cicero shews that these two prejudices destroyed one another. “I \* think, indeed, Accius, you should diligently consider, which judgment comparatively leans heavy, that of the Censors, or of Egnatius? If Egnatius’s act is really oppressive, what the Censors have resolved concerning the others is in the main a light punishment. They expelled Egnatius himself the senate, by whom you imagine his son has been treated with great severity. If the Censors have pursued a wrong measure; you see notwithstanding, that the son, whom the father has disinherited, they have retained in the senate, though at the same time they expelled the father.”

The following faults are too gross to make it necessary for any one to be on his guard to take notice of them; as advancing a doubtful argument, for a certain; a fact contested, for one allowed; a proof common to many things, for that which is proper to the thing itself; or a trivial, unnecessary, or † misplaced proof, for one that strikes home and is convincing. They, who are not sufficiently circumspect, fall likewise into the fault of exaggerating the crime instead of proving it; of disputing concerning the fact, when the question is concerning its author; of attempting impossibilities; of leaving things scarce begun for fully decided; of rather speaking of the man than the cause; of assigning to events the vicious lives

\* Pro Cluent. 135.

† *Serius constitutum* in the text, here rendered *misplaced*, seems to be a proof which the adversary has not used in its seasonable and own place, but in one foreign to it, and therefore it is easily refuted.

of particular men, as if one should impute the crimes of Appius to the Decemvirate; of arguing against evident proofs; of expressing things in equivocal terms; of losing sight of the principal question; of not answering the stated points of accusation. This last is the only excusable fault, when sometimes a bad cause is not defensible without the application of extrinsic remedies, as if to palliate \* Verres's crimes of extortion, his zeal and valour should be commended for protecting Sicily against the depredations of pirates.

VII. The same precepts equally regard the inconsistencies discoverable in the defence. This I think the more necessary to be observed, as many herein are guilty of two different faults. Some, even at the bar, pass objections by in silence, as things troublesome and hateful, and contenting themselves with what they have brought with them, for the most part studied, from home, speak as if they had no adversary. . . Others scrupulously exact, imagine it to be incumbent on them to answer every word and sentence, which would be an infinite and useless labour. This is not finding fault with the cause, but with the pleader of it, whom I always would have appear so far eloquent, that if he speaks what is conducive to his purpose, it may be thought a commendation of his wit, and not of the cause; and if any thing should be found amiss in what he says, it might rather be imputed to the badness of the cause, than charged to the account of his abilities. However, animadversions on the orator's

\* Ver. vii. n. 74.

manner are sometimes seasonable, and attended with good effect. Cicero reproaches \* Rullus with his obscurity, Piso with his puerility, † Antony with his ignorance of the matter, his impropriety of expression, and even his insipidity. Herein he followed his just resentment; but invectives of the kind have their use, more especially when you would bring an odium upon those you thus make a subject of aversion.

There is another way of answering advocates, and not only sometimes the speech they have made, but also their life, their countenance, their gait, their dress, afford matter for satire. These not only Cicero made an attack on in the ‡ person of Quintus, but also his long trailing white § robe garded with purple. Cicero had been piqued against him for irritating the minds of the people by his turbulent harangues against Cluentius, whose defence himself had undertaken. Sometimes, in order to lessen the odium the asperity of the adversary's speech has created, it is made a mockery of. Thus Cicero ridiculed that of Triarius; for having said, that Scaurus's huge marble pillars were carried through the town in waggons: "Yes," replied Cicero, you are very right; I, who had mine hewn in mount Alba, was obliged to have them carried on pack-saddles." This way of turning things into a jest, is better countenanced against accusers, whom the zeal of an advocate for op-

\* Agr. ii. 13.

† Philip. iii. 22.

‡ Pro Cluent. n. 11.

§ *Pratexta*, a white robe bordered with purple, worn by the noble Romans, and commonly reaching down to their ancles.

pressed innocence authorizes sometimes to treat farcally. But the complaint is just and rational in all respects, when any of the orators acts so disingenuously as to be silent upon any essential point, to suppress a part of it, to involve it in obscurity, or to speak of it too late and out of time. . .

But I must advise our declaimers against making to themselves such objections as may be answered with all ease imaginable, and at the same time argue folly and stupidity in the adversary they figure to themselves. This fault they give into from their passionate desire of running after common places to acquire applause; for instead of confining themselves to their subject, they foist into it, whatever they fancy. The \* verse that says, "A bad objection will beget a bad answer," is not unapplicable to them: And indeed, they will find themselves mistaken when they come to the bar, having there an adversary to answer, and not themselves. The poet Accius being asked why he did not plead causes, his tragic powers being so considerable, is said to have made this answer, "That in tragedy his characters spoke as he pleased, but at the bar his adversaries would speak quite contrary to his inclination." It is therefore ridiculous in exercises that are preparative to pleadings at the bar, to study what to answer, before it can be known what the objection will be: consequently, a good master should not

\* *Non male respondit, male enim prior ille rogarat.* If an answer is weak, it may be no fault in him that makes it; for if he was better attacked, he might have defended himself better.

less commend his pupil for his accuteness in discovering what may make for the adverse party, as well as for himself. . .

VIII. There is another fault of appearing over anxious, and too much embarrassed about every trifling difficulty that occurs. It makes the judge distrust the cause, and frequently the things which said extempore might remove all doubt, become suspected by delays and preparatory precautions, as it should seem thereby recourse was only had to them for want of something more substantial. Let therefore the orator shew himself confident, and let him always so speak as if he entertained the best opinion of the cause. This was an excellency in Cicero, as in all other respects. Every thing he advances is seconded by so great an air of security and authority, that it has the force of a proof, and leaves no room to doubt of his veracity.

Now, he that knows the strong hold of the adverse party and his own, will easily judge what he has to refute, and what to insist on. In no other part the order to be observed will be attended with less trouble; for if we are plaintiffs, our own proofs are first to be established, and next, the adversary's refuted. If we are defendants, we are to begin with refuting. . . But it should be a principal consideration with both parties to know the main point and stress of the argument, as it commonly happens that many things are said in causes, and but few judged of.

In the observance of these precepts consists the manner of proving and refuting, which still requires the aid of force and ornament from the abilities of the speaker; for how good soever our reason-

336 Q U I N T I L I A N ' s    B O O K V.  
fons may be, they will appear weak, unless replete  
with the true oratorial spirit. . \* .

## C H A P. XIV.

- I. *What an Epichirem, and what an Enthymem is.*  
II. *The orator ought to use them but seldom.* III.  
*What sort of drefs suits best arguments.*

I. **T**H E R E are three † parts of an Epichirem ;  
the first intention, the second assumption,  
the third connexion. We shall borrow an example  
from Cicero : “ those things are better governed,  
which are directed by wisdom, than where wisdom  
appears to bear no part in the administration ;  
but nothing of all things is better governed than  
the world : therefore the world is governed by  
wisdom.” In these three constituent parts of the  
Epichirem the form is not always the same ; yet  
the Epichirem itself is not otherwise different from  
the Syllogism, than that the latter has several spe-  
cies, and infers truth from truth ; whereas the  
former is more frequently used in demonstrating  
probabilities. . .

The Enthymem is called by some the orators  
syllogism, by others a part of a syllogism, because

† The nature of the Epichirem is differently understood by  
different authors. Here Quintillian almost confounds it with  
the syllogism. Of both there are three parts : the major pro-  
position, or intention ; the minor proposition, or assumption ;  
the conclusion, or connexion. In both, these parts are often  
transposed by the orator, and placed in an inverse order.—  
The example is taken from the Lib. de Invent. i. n. 57, 73.  
where Cicero demonstrates at large that there are five parts of  
this sort of argument.

a syllogism

a \* syllogism properly so called, has a conclusion and proposition, and effects in all its parts what it proposes; but the Enthymem, instead of expressing, makes its proposition to be only understood. A syllogism may be thus formed: "Virtue is the only good: for that must be the only good, which no one can make an ill use of: but no one can make an ill use of virtue: therefore virtue is the only good." An Enthymem, formed of consequents, may be in this manner: "Virtue is a good, which no one man can make an ill use of." And in the way of an argument drawn from contraries: "Money is not a good: for that cannot be a good which one may convert to a bad use; but one may make an ill use of money: therefore money is not a good." Or, "Can money be a good, which one may make an ill use of?" . .

II. I now seem to have fulfilled the obligation I imposed on myself of unfolding the most hidden mysteries of rhetoricians; but still room is left for the exertions and accuracy of the orator's judgment. I am far from imagining that it is quite amiss to use sometimes syllogisms in an oration; yet, would I not have it to consist intirely of, or be crouded with them and other like arguments. In this manner it would more resemble disputations discussed in the way of dialogue or logical contention, than the pleadings which make the object of our work, between which, indeed, the difference is very considerable. The learned,

\* A syllogism has always three propositions; an enthymem but two; for it commonly suppresses the intention, or major proposition, and requires it to be understood, and not expressed by words.

who seek after truth in their researches, examine and scrutinize into all things with the nicest and minuteſt precision, till they find them clear and demonſtrated; and it is on this account they claim to themſelves the art of diſcovering truth, and diſcerning it from falſhood, which art they divide into two parts, calling the one topical, the other critical. But orators are to calculate their ſpeeches for the judgment of others; they are often to ſpeak before perſons quite illiterate, or whoſe knowledge does not go beyond the information they get from them; ſo that unleſs they are induced by pleaſure, drawn by a ſweet violence, and ſometimes have their paſſions roused, all the truth and juſtice of a cauſe may eſcape them, and thus run the riſque of being loſt irrecoverably.

Eloquence chooſes to be rich and pompous, but this her deſire will never be gratified, if curtailed and circumscribed by certain concluſions, all of them conſtantly forming a ſimilarity of cadence. In this manner forced to grovel, ſhe will become contemptible; rendered ſervile, ſhe will inſpire hatred; taught a ſtrain of monotony in a multiplicity of dry and tedious argumentation, ſhe will create loathing. Let her then be ſuffered to purſue her courſe, not through narrow paths, but in open fields; not as waters confined to flow in pipes, but as broad rivers gliding over ſpacious vallies; and if ſhe ſhould meet with an obſtruction to her paſſage, let her open one for herſelf. For what is more pitiful than to be tied down ſervilely to rules, like a child with tremulous hand tracing out the penciled letters of his copy; or, according to the

Greek proverb, anxiously careful of the first \* coat his mother had put on him?

Will not the proposition and conclusion from consequents and contraries, admit of being expressed nobly, of being amplified, adorned, illustrated, and diversified by a thousand figures and turns, with a free and natural air, and not favouring of the restraint of art?

What orator ever spoke the language of dialectic? If we meet with some slight touches in Demosthenes, whose style is so concise and close, we must confess that they are but very few. Yet now many orators, and particularly the Greeks, (for in this they are a degree worse than ourselves), shackle their speeches in the fetters of argumentation, and run them into such inextricable mazes, that it is not possible to follow the thread of them, amidst the absurdity also of proving things that want no proofs, and drawing consequences from the most clear reasonings. Still they fancy that herein they copy the ancients; but if they should be asked which of them, they would be at a loss to answer. I shall speak of figures elsewhere.

III. And here shall only add, that I am not of the opinion of those, who would have the style of arguments conceived in a plain, clear, and distinct manner, but neither copious nor florid. I grant that it ought indeed to be distinct and clear, and that in matters of little moment, it ought to banish all figurative expressions, and appear in the dress of familiar conversation; but if the mat-

\* This proverb alludes to those who labour under the prejudices of infancy and education, and cannot be beaten out of an opinion they once thought favourably of.

ter should be of greater importance, I think no embellishment ought be refused it, so the import of the argument does not suffer by obscurity and confusion. . Besides whatever is naturally rough and rugged, should be made to assume an aspect of smoother grace; and an argumentation that may afford just reasons for making it suspected, should be seasoned with some ingenious irony, so much the more, as the auditor's pleasure is a great inducement to him to believe what he hears to be true: unless perhaps, we might think Cicero deserving of censure, for having in the height of his argumentation expressed himself by a bold figure: "The laws are silent amidst the tumult of arms; and the laws themselves put a sword into our hands, to rid ourselves of our enemies," We should, however, be modest and sober in the use of such figures, admitting them only as ornaments, but never so as to perplex the subject.

## B O O K VI.

*The* I N T R O D U C T I O N .

*Wherein Quintilian complains of his misfortunes, and  
account of the loss of his wife and children.*

**T**HIS work I undertook, chiefly in complaisance to you, Marcellus Victorius; next, with the view of benefiting well-disposed youth; and lastly, on account of the obligation of my \* employment: yet, to declare candidly my sentiments, I had an eye to the care of the object of my own fondness, I mean my son, whose happy genius deserved likewise all the attention of a father; and considering this work as the best part of his inheritance, I hoped, that if the Fates broke the thread of my life, as it was just, and to be wished for by me that it had happened, he should still have his father as a tutor and master. But whilst day and night I laboured to execute my design, before mortality, which I had always present to my mind, had exercised its power over me; the bitterness of fortune, all of a sudden, so overwhelmed me, that the fruits of my industry belonged to no one less than to myself: for I lost that promising son, the

\* The emperor Domitian had committed the tuition of his sister's-grand children to Quintilian.

only hopes of my old age; and this was the \* second wound that was struck deep to afflict me, now a childless father!

What then shall I do? or, on what shall I any more employ the unhappy talents which the Gods seem to reprove? It was my misfortune to be borne down by a like stroke, when I set about writing the book, which I gave to the public, "On the Causes of the Corruption of Eloquence." Why then did not I cast into the fire that accursed work? Why did not I commit it, with that little unhappy learning I might have, to the flames of that funeral pile, kindled so untimely to consume my bowels. I should have gained more by doing so, than by harassing a-new with cares, the remainder of a life which must be necessarily criminal. For what good parent would pardon me, if I again engaged in study? Who would not detest my insensibility, if I made any other use of my voice, than to vent complaints against the injustice of the Gods, who have made me survive all that was dearest to me in the world? If I did not proclaim aloud, that there is no † providence in the regulation of human affairs? That there is none, it is visible in regard to me, if not on

\* He before had lost the other of his sons at the age of five; and afterwards his son Quintilian when he was ten years old.

† It must be a very impious excess in grief, to break out so far as to deny, or arraign providence; but this may be tolerable in a pagan, who considered death, especially in early life, as a punishment; and by reputed himself and his sons innocent, could not believe that just Gods could so punish the guiltless. This passage, however, may serve to shew, how far Christian morality surpasses the Pagan: Quintilian reviles his Gods, and murmurs at the dispensation of providence; but the Christian, from a due sense of the majesty and wisdom of God, is all submission and resignation to his divine will.

account

account of my own misfortunes, to which nothing can be imputed but that I live; at least, on account of the undeserved destiny of my sons, whom cruel death has torn from me.

This loss was preceded by that of their mother, who had not fully completed her nineteenth year, when she ended her days: yet, happy in not having seen mowed down in their budding flower the children she brought into the world. I confess, I was so afflicted, even by this single misfortune, that nothing afterwards could make me happy. Adorned with all virtues desirable in a woman, I could have bewailed her comfortless all my life; and, should her youthful days be compared with mine, she might very well be reckoned amongst the wounds of my widowhood, had she not left after her, children, who in a great degree, were a solace to me for her loss. Besides, she looked upon it as a favour to die before me; cruel in this undoubtedly, but she requested it from heaven, which eased her of many torments by shortening her days. The younger of my sons followed soon after his mother; he was just turned of five years old when I lost him; and by sustaining that loss, I imagined to have lost the half of myself.

I am not ostentatiously vain in magnifying my misfortunes, neither am I willing to augment the sources of my tears; would to the gods I could lessen them! But how can I conceal from myself the reasons I had to cherish so lovely a child? What shall I say of the graces of his countenance, the sweetness of his expressions, the sparklings of his infant wit, the prognostics he already gave of placid temper; and if I dare say, which is scarce

credible at that age, of a soul enlarged with a noble elevation of spirit? Even, if he was not my son, I should have found him infinitely amiable. But his love for me, more than for any one else, made me still more sensible of the cruel darts of treacherous fortune. I know not what inclination made him prefer me to his nurses, to his grandmother who took care of his education, and to all the persons who are best at \* gaining the affection of children. I therefore pardon the Destinies for robbing me of the mother, that good and incomparable woman, a few months before; for, if I must complain of my hard lot, she must be felicitated on hers, as it rescued her from the most sensible affliction a mother can suffer.

After these disasters, my son Quintilian remained to me, who was all my pleasure, all my hopes! And indeed, he could be a sufficient source of comfort. For, already entered upon his tenth year, it was not blossoms he shewed as his younger brother, but fruits, and well † formed fruits, whose harvest could not fail. I swear by my misfortunes! by the doleful testimony of my conscience! by the manes of my dear son, the sacred authors of my tears! I swear that I never saw in any child, I say, not only so many fine dispositions for the sciences, and such an inclination for study, (his masters know it) but so much probity, so

\* In the text, *solicitare*, in the sense it is there taken, seems to be an improper Latin word for *curam gerere*, *blanditiis allicere*; but many such expressions are met with in Quintilian.

† *Deformati fructus* makes a beautiful metaphor, and may be called such as appear *formed* when the blossom falls; or as commonly said, *knit*.

much

much filial respect, so much humanity, so much candour, and sincerity.

Certainly a peal of thunder, like this, ought to make us justly apprehensive of consequences, which have been observed in all times, that what ripens so soon is not of any continuance ; and that there reigns a secret envy jealous of our happiness, which pleases itself in nipping the bud of our hopes, to hinder, perhaps, men from raising themselves too much above their prescribed limits. If ever child portended great matters, it was he. He had even all fortuitous advantages, a charming tone of voice, a sweet countenance, a surprising facility at pronouncing properly \* both languages, as if he had been equally born for both. These qualifications were only preparatives for what was to ensue. But I lay a greater stress upon his virtues, upon his equanimity and constancy, upon the strength with which he bore up against fears and pain. How were his physicians astonished to see him support an eight months illness ! In his extremity he comforted me himself, and desired me not to weep ! If his mind became delirious at times, the subject that employed him was talking of his studies !

O vain and deceitful hopes ! O my dear son ! Could I then have seen your eyes shut for ever to the light, and your soul departing from me ? Could I receive your last breath, hold in my arms your motionless, lifeless, and frozen body, and not die of grief with you ? Yes, I deserve the tortures I endure, and the melancholy reflections to which I devote myself. O my dear son ! You,

\* The Greek and Latin.

whom

whom a consul just adopted; you, whom a prætor, your maternal uncle, had already designed for his son-in-law; you, who was to succeed your father in all his honours, and share them with him in his life-time; you, in whom every one thought to see revived the eloquence of the best ages; shall I never see you more, and shall I, a childless father, be condemned to live only to suffer? At least, you will have your revenge; not, but it is with regret that I endure the light, but to enjoy it is perhaps a crime that offends you; and if my life be my crime, it shall be also my punishment. For it is to no purpose that we impute our ills to fortune; no person is long unhappy, unless through his own fault. But we live, and as we live, we must seek out for some occupation; and we may believe the learned, who have looked upon letters, as the only solace in adversity.

If the grief which weighs me down at present, should be mitigated a little by time, and admit of other thoughts, I believe my asking pardon for the delay of this work, would not be unjust: for who could be surprized at seeing it laid aside for a time, when it would not be surprising to see it absolutely discontinued? But, should the following books shew somewhat of the trouble I am in, let my adverse fortune, rather than want of skill, be blamed, which ought, if not to extinguish, at least to weaken, the little genius I have. Let us, however, bear up against it, and, the more firmly, that if it be difficult to support it now, it will be easier for us hereafter to despise it. I can brave it; it has brought my vexations to their height, and in this even I find a doleful, but just security.

It

It seems therefore, that the public should now be more obliged to me for this work, as I am not influenced by any particular interest, and, as the advantage which is to accrue from it, if any, is intirely for another. For such is my unhappiness, that my patrimony and my writings, the fruits of a long and painful life, will all devolve, and be left to strangers.

## C H A P. I.

*Of the Peroration.*

*Its use is for recapitulating the matter of the discourse, and for moving the passions. I. The recapitulation may be performed briefly, and diversified with figures.—This seemed to the Athenians and philosophers, the only kind of admissible epilogue.—It may also be employed in other parts. II. Moving the passions, 1. on the part of the plaintiff. By exciting jealousy, hatred, indignation.—By making what he alledges to appear exceeding heinous, or very wretched and piteous.—He ought also to prevent the judge from entertaining any sentiment of compassion the defendant may endeavour to inspire him with. 2. On the part of the defendant. Whatever is customary in favour of one that is in danger.—Pity is inculcated chiefly from the sufferings of the defendant, either actual, or what may avail him, if condemned.—Then the *protopoia* is of singular service.—Exciting compassion should never be long. III. Pity may be moved, not only by words, but by certain actions.—It then is of consequence how the party*  
corresponds

*corresponds with the Orator's intentions, in regard to the purpose of being introduced. IV. No one, without the greatest powers of eloquence, should attempt to draw tears from his audience.—How moving compassion should be left off.—More gentle sorts of epilogues.—The passions may be moved occasionally in all parts of the discourse.*

THE \* peroration, called by some the completion, by others the conclusion, of a discourse, is of two sorts, and regards either the matters discussed in it, or the moving of the passions.

I. The repetition of the matter, and the collecting it together, which is called by the Greeks † recapitulation, and by some of the Latins, enumeration, serves for refreshing the judge's memory, for placing the whole cause in one direct point of view, and for enforcing in a body many proofs, which separate made less impression. It should seem that this repetition ought to be very short, and the Greek term sufficiently denotes, that we ought to run over only the principal heads; for if we are long in doing it, it will not be an enumeration we make, but as it were, a second discourse. The particulars, however, which may seem to require this enumeration, ought to be pronounced with some emphatical weight, and enlivened with apposite thoughts, and diversified by figures; otherwise nothing will be so disagreeable as a mere cursory repetition, which seems to shew a diffidence of the judge's memory. A multiplicity of figurative turns are calculated for this pur-

\* Concerning the peroration, see Cicero, l. i. de Inv. n. 98. 109. l. ii. de Orat. n. 185. 216. and in Orat. n. 128. 135.

† ἀνακεφαλαιώσεις.

pose, and Cicero will furnish us with examples of them, as when addressing \* Verres, he says, “ Even if your father was to be judge in the case, what should he say on producing proof of these allegations ? ” and then he enumerates them. Or, when also against the † same, by invoking the gods to bear witness, he makes an enumeration of all their temples which had been pillaged by the prætor. . .

This seems to be the only sort of preroration, admissible by most of the Athenians, and by almost all the philosophers, who left any thing written on the art of Oratory. The Athenians, I suppose, were of that opinion, because it was customary at Athens to silence, by the public crier, any Orator, who should attempt to move the passions. The philosophers I am less surprised at, every perturbation of the mind being considered by them as vicious ; neither did it seem to them compatible with sound morality, to divert the judge from truth ; nor agreeable to the idea of an honest man to have recourse to any sinister stratagem. Yet moving the passions will be acknowledged necessary, when truth and justice cannot be otherwise obtained, and when a public good is concerned in the decision of the matter.

All agree, that a recapitulation may be also employed to advantage in other parts of the pleading, if the cause is complicated, and requires many arguments to defend it ; and on the other hand, it will admit of no doubt, that many causes are so short and simple, as to have no occasion in any part of them for a recapitulation. This part

\* Verr. vii. 135.

† Ibid 183, &c.

of the peroration is equally common to the accuser, and to the defendant's advocate.

II. They likewise use nearly the same passions, but the accuser more seldom and sparingly; and the defendant oftener and with greater emotions: for it is the business of the former to stir up aversion, indignation, and other similar passions in the minds of the judges; and of the latter to bend their hearts to compassion. Yet, the accuser is sometimes not without tears, in deploring the distress of those in whose behalf he sues for satisfaction; and the defendant sometimes complains with great vehemence of the persecution raised against him by the calumnies and conspiracy of his enemies. It would be therefore best to distinguish and discuss separately the different passions excited on the parts of the plaintiff and defendant, which are most commonly, as I said, very like what takes place in the exordium, but are treated in a freer and fuller manner in the peroration.

The favour of the judges towards us, is more sparingly sued for in the beginning, it being then sufficient to find admittance, as the whole discourse remains for making further impressions. But in the peroration, we must strive to make the judge assume that disposition of mind it would be necessary for us he should retain, when he comes to pass judgment. The peroration being finished, we can say no more, neither is any thing reserved for another place. It is therefore common to the contending parties, to conciliate to themselves the judge; to make him unfavourable to the adversary; to raise and allay occasionally his passions: and

and both may find their account in this short precept, which is, to keep in view the whole stress of the cause, and on seeing what it contains either favourable, odious, deplorable, or heinous, in reality or probably so, to say those things, which would make the greatest impression on themselves, if they sat as judges. But it is better to treat of these duties apart.

1. I have already mentioned in the precepts for the exordium, how the accuser might conciliate to him the judges. Yet some things, which it was enough to point out there, should be wrought to a fulness in the peroration; especially, if the pleading be against one universally hated, and a common disturber, and if the condemnation of the culprit should as much redound to the honour of the judges, as his acquittal to their shame. Thus Calvus spoke admirably against Vatinius: "Ye know, good Sirs, that Vatinius is guilty, and no one is ignorant that ye are sensible of it." Cicero, the same way, acquaints the judges, that if any thing is capable of re-establishing the reputation of their judgments, it must be the condemnation of \* Verres. If it be proper to intimidate the judges, as Cicero likewise does, against † Verres, this is done with better effect in the peroration than the exordium. I have already explained my sentiments on this point.

In fine, when it is requisite to excite envy, hatred, indignation, there is a greater scope for executing this to advantage in the peroration than

\* Verr. ii. n. 43, &c.

† Verr. iii. n. 22. and Verr. vii. n. 172. & 81.

elsewhere. The interest of the accused may naturally excite the judge's envy ; the infamy of his crimes may draw upon him his hatred ; the little respect he shews him may rouse his indignation. If he is stubborn, haughty, presumptuous, let him be painted in all the glaring colours that aggravate such vicious temper, and these manifested not only from his words and deeds, but face, air, and dress. I remember on my first coming to the bar a shrewd remark of the accuser of Cossutianus Capito. He pleaded in Greek before the Emperor, but the meaning of his words was : " Might \* it not be said that this man disdains even to respect Cæsar."

However, the only way for the accuser to affect the judges is, to represent his charge in such a light, as may appear to them the most atrocious, or the most deplorable thing in nature.

The atrociousness of a crime is aggravated from its circumstances : as, " What has been done, by whom, against whom, with what intention, at what time, in what place, and after what manner ?" all which afford an unexhausted fund for observation. If the complaint is concerning a person struck at or beaten : we should first speak of the assault, and next aggravate the crime from the circumstance of the injured party being an old man, or a boy, or a magistrate, or one remarkable for his integrity, or for having deserved well of the commonwealth. Also, if he has been struck at by some vile and contemptible fellow ; or on the contrary, by an overbearing powerful man ;

\* *Erubescit Cæsarem timere.*

or by one, from whom that kind of treatment was little expected. Again, if this happened on some solemn festival; or when some court of justice was sitting on the trial of a like offence; or in the time of a public calamity; or in a theatre, or temple, or the assembly of the people. There may still be other aggravating circumstances, as if it was neither by mistake, nor by anger, from any immediate cause of quarrel; but rather in consequence of some old grudge, because the plaintiff had taken the part of his father, or friends; or was a candidate with the aggressor for a place or post of honour in the republic; and here too it may be considered, if he seemed to have an intention of proceeding farther in his villainy if he could. The manner likewise contributes not a little to the atrociousness of the act, as if the blow was great, or given on purpose to affront. It was so Demosthenes irritated the judges against Midias, by representing the indignity of the affront, a slap on the cheek, which he had received from him, and the scorn with which his insolence had accompanied it. If the complaint should be on the killing of a man, it will be necessary to relate by what means he came by his death, and the circumstances of it: whether he died by sword, by fire, or by poison; by one, or more wounds; whether he expired instantly, or was suffered to expire in great agonies.

The accuser also has frequently recourse to compassion, either by setting forth the distressed state of him, for whom he hopes to find redress; or by describing the desolation and ruin his children and relations are likely to be thereby involved in.

He may move too the judges by holding out to them a prospect of what may happen hereafter, if injuries and violence remain unpunished, the consequences of which will be, that either his party must abandon his dwelling and the care of his effects, or must resolve to endure patiently all the injustice his enemy may strive to do him.

But the accuser more frequently will endeavour to caution the judge against the pity the defendant intends to inspire him with; and he will spirit him up in as great a degree as he can, to judge according to his conscience. Here too will be the place to anticipate whatever the adversary may be thought to do or say; for it makes the judges more circumspect in regard to the sacredness of their oath; and by it the answer to the pleading may lose its expected indulgence, together with the charms of novelty in all the particulars the accuser has already cleared up. . The judges besides may be informed of the answer they should make to those who might threaten to have their sentence reversed; and this is another kind of recapitulation.

2. The accused is commendable by his dignity, his brave exploits, the wounds he received in war, the nobility of his extraction, and the merits of his ancestors. Cicero and Asinius seem to have exerted themselves in a particular manner on these two last considerations, when they defended, the one Scaurus the father, the other Scaurus the son. The cause of the danger incurred by the accused, is another good recommendation in his favour, as if he should seem to have created enemies to himself by his engaging in a laudable act. On this account an encomium may pass on his  
good-

goodness of heart, and on his humane and merciful disposition. For it is reasonable to expect from a judge the sentiments one has entertained for another. This part also may be considered as interesting the public good, the glory of the judges, the instruction and memory of posterity.

But nothing avails so much as those impressions of pity, which not only master the judge's inclinations, but also force him to confess the perturbations of his mind by tears. These take place, either from what the defendant has suffered, or from what he then actually suffers, or from what he is likely to suffer if condemned; and they are redoubled from a comparative view of his present eminent, and future wretched fortune. The circumstances of age, sex, and the dear pledges of children, parents, and relations, throw some weight into the scale. All which are variously treated. Sometimes the advocate makes himself a party; as Cicero for Milo: "Unfortunate man that I am! yes, Milo, you could by means of those who are this day your judges, recall me from banishment into my country; and must it be my hard fate not to be able by these same judges to keep you in it?" This proves a very good resource, especially if, as was then the case, supplications do not suit the defendant. For, who could endure that Milo, to avert the danger that threatened his life, should demean himself to humble intreaties, and at the very time of his having confessed he had killed a man of the first quality, and maintained that he had killed him justly. Cicero therefore, inhaucés this his magnanimity to his great advantage, and

takes upon himself the character of the suppliant, which he could not give him.

In these places the *profopopœia* is of singular service, that is, speeches put into the mouth of others, by which the \* accuser and advocate may occasionally introduce each other speaking. Mute and inanimate things may also be made to affect; whether we ourselves speak to them, or lend them speech. The † parties concerned are likewise very proper objects for affecting minds; for the judge does not seem to himself to hear so much the Orator weeping over others misfortunes, as he imagines his ears are smitten with the feelings and voice of the distressed. Even their dumb appearance might be a sufficiently moving language to draw tears; and as their wretchedness would appear in lively colours, if they were to speak it themselves, so proportionately it must be thought to have a powerful effect, when expressed, as it were, from their own mouth. Just so, in theatrical representations, the same voice, and the same emphatical pronounciation, become very interesting under the ‡ masks used for personating different characters. In a like view, Cicero, though he gives not the voice of a suppliant to Milo, but on the contrary, commends his unshaken con-

\* See Cicero. *Verr.* vii. n. 1. 4. and *pro Mur.* n. 21.

† The persons, whose cause is pleaded, may be made proper objects for moving the passions, when the Orator gives them speech, or introduces them speaking.

‡ It was customary with the ancient comedians to wear masks, in order, as they thought, to represent more to the life, the different characters they were to assume; and often the same actor for a different scene, would shift his mask and dress, to play the part of a valet, a chambermaid, a husband, old man, &c.

stancy ; yet does he adapt to him words and complaints not unworthy of a man of spirit : “ O my labours, to no purpose undertaken ! deceitful hopes ! useless projects ! ”

However, this exciting of pity should not be ever long, it being said, not without reason, that “ nothing dries up so soon as tears.” If time can mitigate the pangs of real grief, of course the counterfeit grief assumed in speaking, must sooner vanish ; in which if we dally, the auditor finding himself overcharged with lamentable ideas, strives to resume his tranquillity ; and thus ridding himself of the emotion that had overpowered him, soon returns to the exercise of cool reason. We must therefore never suffer this business to run languid, and when we have wound up the passions to their greatest height, we must instantly drop the subject, and not expect that any one will long bewail another’s mishap. Therefore, as in other parts the discourse should be well supported, and rather rise, so here in a particular manner it should grow to its full vigour ; because that which makes no addition to what has been already said, seems to diminish it ; and a passion soon evaporates, that once begins to subside.

III. Tears are not only excited by words, but by doing certain things, whence it was not unusual to produce the very parties who were in danger of condemnation, in a garb suitable to their distress, together with their children and relations. Accusers too, make it a custom to shew a bloody sword, and fractured bones picked out of wounds, and garments drenched in blood. Sometimes likewise they unbind wounds to shew their con-

dition, and strip bodies naked to shew the stripes they have received. These acts are commonly of mighty efficacy, as fully exhibiting to the minds of men the reality of the transaction. Thus it was that Cæsar's robe, exposed all over bloody in the Forum, drove the people of Rome into an excess of madness. It was well known that he was assassinated; his body also lay in state in order to his funeral; yet that garment still dropping with blood, was so picturesque of the horrid murder, that it seemed to them to have been perpetrated that very instant.

But among these observations, I cannot say that I commend a fact I have read of, and sometimes seen myself, which was the placing over the statue of \* Jupiter, a piece of painting expressive of the transaction that was to inspire the judges with horror. I must think any orator quite sensible of his insufficiency to imagine, that such a cold and mute painting would be more affecting than his words.

Still am I satisfied, that a garb of mourning, and a dejected appearance, both in the accused and his friends and relations, have been of service; and much more the humble prayers made in their favour. Wherefore, the imploring of the judges mercy through the dearest pledges of the accused, if he has any, as children, wife, kinsfolks, will be useful; as will also, calling the Gods to witness, which is commonly taken for the testimony of a good conscience. I find in like

\* In the Roman Forum, a statue of Jupiter was erected, that from the reverential awe inspired by religion, the judges might be warned to decide with justice and integrity of heart. The intention was good, as declaring that God himself was witness to their judgments.

manner no fault with a suppliant posture, as throwing one's self at the feet of the judges and embracing their knees, unless the character and condition of the accused be against a humiliation of the kind: for some things must be defended with the same spirit they have been transacted; but the exercise of authority ought to be so moderated, as not to degenerate into a hateful security.

Cicero has furnished us with a remarkable instance of saving a criminal by the consideration of his character and dignity. He undertook the defence of L. Murena, but perceiving there was a powerful party against him, he set aside answering the accusation, and persuaded the assembly, that there was a pressing necessity in the bad posture of public affairs, to make the consuls elect, of which Murena was one, enter upon their consulship the day before the calends of January. But as now the wisdom of the emperor is alone sufficient for the government of the state, no room is left for this kind of defence, the event of such a judgment not being able in any respect to prejudice the public welfare.

Hitherto I have only spoken of criminal causes, of which the circumstances seem best calculated for moving the passions; but there are private causes which may likewise be susceptible of the two kinds of peroration, that which consists in an enumeration of proofs, and that which is for exciting pity, if the fortune or reputation of the party is likely to be injured. But to represent these tragic scenes in trivial contests, and causes of little consequence, would be a similar case to the fitting on a child the mask and buskins of Hercules.

It will not be amiss to hint, that the success of the peroration depends much on the manner of the parties conforming themselves to the emotions and action of their advocate. Stupidity, rusticity, and a want of sensibility and attention, throw, as it is said, cold water on a cause, against which the orator cannot be too well provided. I have indeed often seen them acting quite contrary to their advocate's instructions. Not the least shew of concern could be observed in their countenance. They laughed foolishly and without reason, and made others laugh by some ridiculous gesticulation or grimace, especially when the heat of a debate exhibited any thing akin to theatrical action.

There are accidents which the orator himself ought to foresee. In a pleading on account of a little girl, in order to have her acknowledged as sister by the adversary; the girl's advocate, about the time he was to speak the peroration, handed her over to the seat of her pretended brother, that hanging about his neck in tender embraces, she so might move him and the judges to pity her forlorn state; but the brother previously apprized of the design, had slipped privately away, and the poor advocate, though otherwise a good speaker, was so surprized at his unexpected disappearance, that he had not a word to say, and covered with shame, was obliged to take back with him his little girl.

Another, pleading for a young woman, whose husband had been killed, thought he should effect mighty matters by having a picture produced of this scene of cruelty. But the picture proved a cause of infinite laughter; for they who had received

ceived directions for shewing it, not knowing what a peroration meant, as often as the orator looked towards them, failed not to expose it in full view; so that at length being gazed at by every one, the so much lamented husband was found to be an ugly old man, which made the pleading lose all the merit it might otherwise have had.

It is well known what happened to Glicon, who was surnamed Spiridion. Thinking to soften the judges by the tears of a child, whom he made a party in the cause, he placed near the lad one to warn him when he was to cry; and Glicon directing suddenly the discourse to him, and asking why he wept, the child answered ingeniously that his master had pinched him. But nothing shews so much the risque of perorations on these occasions, as the fable recited by Cicero against the Cepasii, in his oration for Cluentius.

All these things, however, become in a great degree excusable, when the orator has presence of mind enough to alter the intended course of his pleading. But they, who are slaves to what they have written, are either struck mute by these mischances, or commonly say what is absolutely false. Hence these impertinencies: "Behold the unfortunate man in humble supplication, throwing his hands about and embracing your knees!" "Have compassion on the father, who embraces perhaps for the last time his children." And, "Yes, such a one has given me a very seasonable hint;" though nothing of all that is said has been done. We bring these faults from schools, where we are at liberty to frame and suppose whatever we please; but the truth required at the bar, makes no allowance

lowance for them. Cassius Severus is justly commended for his repartee to a young orator, who having asked, why he looked so sternly at him? "Who I, said Cassius; I am sure I did not? But you said so, because you have it down on your paper. Well then, now I will;" and at the same time gave him a most terrible look.

IV. I will now give an advice of some importance, which is, that none attempt drawing of tears unless endowed with an extraordinary force of genius. For, as no sentiment is more powerful than this, when it once masters the heart, so if it effects nothing, it becomes faint and languid. An orator of slender abilities will therefore acquit himself better, by suffering the judges of themselves to feel the compassion his subject may naturally inspire them with; and this the rather, as the appearance, and voice, and studied air of the accused's countenance, are often ridiculed by such as are not affected by them. Let therefore the orator make an exact estimate of his powers, and be sensible of the burden he undertakes. Here there is no medium; he must either make the auditory weep, or expect to be laughed at.

The peroration is not intirely calculated for exciting pity; it should also endeavour to dissipate that sentiment, either by a rational remonstrance, in order to calm the minds of the judges, and bring them back to the point of justice; or to recreate their fancies with some witty raillery: such was the remark, "Give bread to that child, that he may not cry:" or that other of one, who pleading for a very corpulent man, said: "What more must I do for you? For I cannot indeed carry you

you on my shoulders," because the adversary was a child, whom his advocate had carried into court.

But these pleasantries ought not to favour of the buffoon; for which reason I do not approve of the behaviour of an orator, who though one of the greatest of his time, threw a parcel of playthings to be scrambled for by some poor children, which had been brought in at the time of the peroration, to move the judges in favour of their unhappy father. This their ignorance, however, of the threatening danger should seem very deserving of compassion. I shall cite another instance of buffoonery in an advocate, who, on seeing a bloody sword produced by the accuser, as a proof of the murder committed, suddenly, as terrified, started from his seat, and hiding partly his head, when he looked back at him from among the croud, asked if he was gone with his sword. He caused the audience to laugh, it is true; but made himself ridiculous. Nevertheless these tragic scenes for inspiring horror and pity, may all be made to vanish by the plausibility of a cool and dispassionate reply; some good examples of which we meet with in Cicero, as where for Rabirius he fiercely attacks Labienus for producing the effigy of Saturninus; and pleading for Varenus, rallies with great humour a young man, whose wound was often unbound, and exposed to view, during the trial.

There are perorations of a much milder nature in answer to an adversary, when perhaps his person is such that respect is due to it; or when we friendly advise any thing for the sake of peace and

harmony. This sort of peroration was admirably well handled by Passienus, who on pleading the cause of his wife Domitia about some money transaction against her brother Ænobarbus, when he had made many observations on the ties of kindred that linked them to each other, and the plentiful fortune both were possessed of, added: "Nothing is less wanting to you, than the object of your contention."

But it should not be imagined, as some have thought, that all this exciting of the passions, all these sentimental emotions, ought to be confined to the exordium and peroration. In them, indeed, they are most frequent, yet other parts admit them likewise, but in a shorter compass, as their greatest stress should be reserved for the end. For here, if any where, the orator may be allowed to open all the sluices of eloquence. If we have executed all other parts to advantage, here we take possession of the minds of the judges, and having escaped all rocks and shelves, may expand all our sails for being swelled with a favourable gale; and as amplification makes a great part of the peroration, we then may raise and embellish our style with the choicest expressions and brightest thoughts. And indeed, the conclusion of a speech should bear some resemblance to that of tragedy and comedy, where the actor courts the spectator's applause. In other parts, the passions may be touched upon, as they naturally rise out of the subject, and no horrid or doleful thing should be exposed without accompanying it with a suitable sentiment. When the debate may be on the quality of a thing, it is properly subjoined

to

BOOK. VI. INSTITUTES OF THE ORATOR. 365  
to the proofs of each occurring matter. When  
we plead a cause complicated with a variety of  
circumstances, then it will be necessary to use  
many, as it were, perorations, as Cicero does  
against \* Verres, lending his tears occasionally  
to Philodamus, to the masters of ships, to the  
crucified Roman citizens, and to many others. .

## C H A P. II.

### *Of the Passions.*

I. *The chief powers of eloquence lie in the moving  
of the passions.* II. *What the pathos, and what  
the ethos is.* III. *The orator, to move the pas-  
sions in others, must be first moved himself. How  
this may be accomplished.*

I. **T**HE peroration being the summary, if not  
the main point of a judicial cause, and  
consisting chiefly of passions, of which, though I  
was under a necessity of saying something; yet,  
neither could, nor ought I, comprehend under  
one only species all that might be said on so ex-  
tensive a subject. The most difficult business re-  
mains therefore for discussion, and withal the most  
proper, for giving the causes we undertake a fa-  
vourable issue, by pointing out the way of ma-  
naging the minds of the judges, or rather by  
turning and transforming them into whatever  
shape we please. I hinted something on this head  
in the foregoing chapter, but the little I said,  
served more to make known what ought to be

\* Verr. iii. 76, &c. Verr. vii. 105, &c. 116, &c.

done

done than the manner of doing it. Now I shall resume the whole matter as high up as need be.

I observed that there was room for passions in all parts of the cause; and, as their nature is not so simple as to require only to be cursorily treated, it may be well imagined that nothing is so important in the whole art of oratory. A slender genius, aided with learning or experience, may be sufficient to manage other parts to some advantage; instances having occurred of a good many who were expert at making the most of proofs. These indeed, I do not hold in any contemptible light; yet, I ever reputed them as fit only for instructing the judges, and masters and models proper enough for those who take no concern beyond passing for good speakers. But to possess the secret of forcibly carrying away the judges, of giving them as we please, a certain disposition of mind, of inflaming them with anger, of softening them into pity, so as to draw tears from them; all this is rare, though by it the orator is most conspicuous, and by it eloquence gains an empire over hearts. The cause itself is naturally productive of arguments, and the better share generally falls to the lot of the more rightful side of the question; so that whatever party conquers by dint of argument, may think that so far they did not want an advocate. But when violence is to be offered to the minds of the judges; when they are to be turned from coolly reflecting on the truth that makes against us, then is the true exercise of the orator's powers; and this is what the contending parties cannot inform us of, neither is it contained in the  
state

state of their cases. Proofs, it is true, make the judges presume that our cause is the better, but passions make them wish it such; and as they wish it, they are not far from believing it to be so. For, so soon as they begin to imbibe from us our passions of anger, favour, hatred, or pity, they make the affair their own. And as lovers cannot be competent judges of beauty, because love blinds them; so here, a judge attentive to the tumultuous working of a passion, loses sight of the way he should proceed by, to inquire after the truth: the impetuous torrent sweeps him away, and he is borne down its current. The efficacy of arguments and witnesses is not known till judgment has passed; but the judge, who has been affected by the orator, still sitting and hearing, declares his real sentiments. Is not his sentence already pronounced, who is seen to melt into tears? Such then is the force of moving the passions, to which the orator ought to direct all his efforts, this being his principal work and labour, as without it all other particulars are naked, hungry, weak, unpleasing. So true it is, that passions are the very life and soul of a pleading.

II. Now, according to what the ancients have written on this subject, there are two sorts of passions, one called by the Greeks *πάθος*, which we may render affection, or passion: the other *ἥθος*, we cannot express exactly by any term in our language, but may call it manners, and hence that part of philosophy, denominated ethics, or moral. However, upon more mature consideration it should seem, that we are not to understand so much manners in general, as a certain propriety of manners.

ners. For the word *Manners* signifies generally all the habitudes of the mind; on which account more cautious authors, chose rather to explain these terms in regard to the will, than shew themselves nice in barely interpreting names. Placing therefore a distinguishing mark on the *pathos* and the *ethos*, they say that the first is lively and animated; the second mild and composed: the one vehement and full of agitation; the other easy and placid: The former made for commanding; the latter for persuading: This for troubling and disturbing minds, that for softening and gaining them. . .

Still it seems necessary to be more particular in the explanation of the term *ethos*, as not appearing of itself sufficiently significative. What therefore we ought to understand by it, and what we require of those, whose business it is to \* shew its purport and tendency, is in general a character of goodness, not only mild and pleasing, but humane, insinuating, amiable, and charming to the hearer; and its greatest perfection will be, if all, as influenced by it, shall seem to flow from the nature of things and persons, that so the morals of the orator may shine forth from his discourse, and be known in their genuine colours. This character of goodness should undoubtedly be invariably maintained by those, whom a mutual tie ought to bind in strict union, whenever it may

\* This may be understood concerning those orators, who endeavour to instruct or give information to the judges; for which purpose the milder passions have a better effect; or in general, it may regard all teachers, especially those who have the care of the education of youth, to whom they ought to behave with all imaginable lenity and sweetness of temper.

happen

happen that they suffer any thing from each other, or pardon, or make satisfaction, or admonish, or reprimand, but far from betraying any real anger or hatred. A father chides his son, a tutor his pupil, a husband his wife; but their ways are different. They all, however, shew a great tenderness for those who have disobliged them; neither do they otherwise hate them, but because they have not made a due return to their affection. But the mode of resentment is quite different, when an old man is insulted by a young man, a superior by an inferior. In the first case, some slight emotions only break out; in the second, the injured party is cut to the heart with fore vexation. . .

Hence also a sentiment very powerful for exciting hatred may arise, when an act of submission to our adversaries; is understood as a silent reproach of their insolence. Our willingness to yield must indeed shew them to be insupportable and troublesome; and it commonly happens that they who have an itch for railing, and are too free and hot in their invectives, do not imagine that the jealousy they create is of far greater prejudice to them than the malice of their speech; for it is this envy that makes our adversaries odious, as injurious treatment by words would ourselves. . .

In short, this notion of the *ethos* presupposes also that the orator himself ought to be a good and humane man. The virtues, which he commends, if he possibly can; in his party, he should possess, or be supposed to possess himself. In this manner will he be of singular advantage to the cause he undertakes, the good opinion he has created of himself, being a prejudice in its favour. For if whilst

he speaks, he appears to be a bad man, he must of consequence plead ill, because what he says will be thought repugnant to justice, in the idea of which the ethos is likewise included. The style and manner suitable on these occasions, ought therefore to be sweet and insinuating, never hot and imperious, never hazarded in too elevated a strain. It will be sufficient to speak in a proper, pleasing, and probable way; and the middle or temperate kind of style is that which suits best manners.

The sentiments required for the pathos are of a different nature; but to draw a line of just discrimination between them, I shall resemble the ethos to comedy, and the pathos to tragedy. And indeed, the pathos is intirely taken up with the passions of anger, hatred, fear, envy, pity. It is manifest to all from what sources they proceed, and may be drawn, which I have mentioned in discoursing of the exordium and peroration.

I shall therefore observe only that there are two sorts of fear; one, we are sensible of ourselves; and the other, we inspire others with. The orator finds more difficulty in exciting the latter. Some things are heinous in themselves, as parricide, murder, poisoning; others not, but may be represented as if they were. For this purpose we may sometimes compare our misfortunes with others very great, and make appear that ours exceed them. Virgil \* does so by the words he puts in the mouth of Andromache.

\* *Æn.* iii. 321.

O! happy she, that Priameian maid,  
 Happy above the rest! who, doom'd to die  
 Beneath Troy's walls, before an hostile tomb,  
 Fell by no lot to any victor's share,  
 Nor e'er ascended, as a captive queen,  
 His lordly bed. TRAPP.

How rigorous is the fate of Andromache, compared with that of the happy Polyxena? Sometimes we may so heighten the injury done us, that one by far less great, may seem notwithstanding insupportable. 'If you had only struck him, you could plead no excuse; but you wounded him.' But of this more at large, when I come to speak of amplification.

In the mean time, I shall content myself with remarking, that the orator's business in regard to the passions, should be not only to paint atrocious and lamentable things as they are, but even to make those seem grievous, which are reckoned tolerable; as when we say, that an injurious word is less pardonable than a blow, and that death is preferable to dishonour. For the powers of eloquence do not consist so much in forcing the judge into sentiments, which the nature of the matter itself may be sufficient to inspire him with; as they do in producing and creating, as it were, the same sentiments, when the subject may seem not to admit them. This is that \* vehemence of oratorical abilities, which knows how to equal and even to surpass the enormity and indignity of the facts it exposes; a quality of singular consequence

\* δεινότης.

to the orator, and in which Demosthenes excelled all others.

III. If I had thought it enough for me to abide by the precepts which have been delivered concerning the passions, I might have satisfied this part, having omitted nothing of all I read or learned that seemed to me any way rational. But my \* intention is to lay open the mysterious sanctuary of this place, and disclose what has been most hidden in it; a discovery, which I owe, not to masters, but to nature, and my own experience. The great secret therefore, as far as I am able to judge, for moving the passions, is to be moved ourselves; for the imitation of grief, anger, indignation, will be often ridiculous, if conforming only our words and countenance, our heart at the same time is estranged from them. What other reason makes the afflicted exclaim in so eloquent a manner amidst the first transports of their grief? And how otherwise do the most ignorant speak eloquently in anger, unless it be from this force, and these feelings of the mind?

In such passions therefore, which we would represent as true copies of real ones, let us be ourselves like those who unfeignedly suffer; and let our speech proceed from such a disposition of mind, as we would have the judge be in. Will he grieve who hears me speak with an unmeaning face and

\* The precept that follows, "for being moved ourselves, if we are willing others should be moved," is not new, as Quintilian thinks, having been recommended before his time, by Cicero, l. 2 de Orat. n. 189, 197. and by Horace in his Art of Poetry, *si vis me flere, dolendum est primum ipsi tibi*. And the same nature and experience might have directed others to the same reflection before them.

air of indifference? Will he be angry, when I, who am to excite him to anger, remain cool and sedate? Will he shed tears, when I plead unconcerned? All this is attempting impossibilities. Nothing warms nor moistens but something endued with the quality of heat or moisture; neither does any thing give to another the colour it has not itself. The principal consideration to be attended to must then be, that we retain the impression ourselves we would have the judges susceptible of, and be affected, before we endeavour to affect.

But how shall we be affected, the emotions of passions being not at our command? This too I shall strive to explain. What the Greeks call *φαντασίας*, we may call visions, whereby the images of things absent are so represented to the mind, that we seem to see them with our eyes, and have them present before us. Whoever can work up his imagination to an intuitive view of this kind, will be very successful in moving the passions. Some call that person *εὐφαντασιωτὸν*, who by the force of imagination can express in a natural colouring, things, words, and actions; and this with a little attention is easily effected.

For if, for example sake, amidst the amusements of the mind, and vain fancies, and dreams, as it were, that seem to possess the notions of people awake, the images of the things of which we speak, so seem to beset our thoughts, that we imagine we are travelling, sailing, fighting battles, and haranguing, and disposing of the use of riches which we have not; and this not in thought only, but in reality: may we not then convert this vice of the mind to useful purposes? If I com-

plain of the fate of a man who has been assassinated, may I not paint in my mind a lively picture of all that has probably happened on the occasion? Shall not the assassin appear to rush forth suddenly from his lurking place? Shall not the other appear seized with horrors? Shall not he cry out, beg for his life, or fly to save it? Shall I not see the assassin dealing the deadly blow, and the defenceless wretch falling dead at his feet? Shall not I figure to my mind, and by a lively impression, the blood gushing from his wounds, his ghastly face, his groans, and the last gasp he fetches?

In this respect also the *εναργεια*, called by \* Cicero illustration and evidence, will be of notable service, as by it things seem not so much to be said, as shewn; and passions will start up in our minds, as if we were eye-witnesses of the transaction. Do not the following descriptions of Virgil, shew the surprizing force of imagination? As of the situation and behaviour of Euryalus's † mother, on hearing of his death:

A sudden chillness seiz'd her shiv'ring limbs,  
From her slack hand down drops th' unravel'd  
web;

Springing, distracted, from her seat, she rends  
Her hair with female shrieks; and to the walls,  
And foremost squadrons runs with frantic pace.

TRAPP.

And of the moving spectacle of the unfortunate ‡ Pallas, whose

gaping wound

In his smooth breast.

TRAPP.

\* Acad. iv. 17.

† Æn. ix. 476.

‡ Æn. xi. 40.

And

And of the distressed condition of the \* horse of that young warrior, which replete with sorrow for the death of his master, walked mournfully in the funeral procession.

behind them, stripp'd  
Of his rich trappings, goes the warrior steed,  
Æthon; and big round drops roll down his  
face. TRAPP.

Has not the same poet a very descriptive † image of a dying hour, and the regrets of a man breathing his last in a strange country.

With dying eyes views the last light of heav'n,  
And on his much lov'd Argos thinks in death.  
TRAPP.

But when there is an occasion for moving to compassion, we should believe and be indeed persuaded, that the distress and misfortunes we speak of, have happened to ourselves. Let us place ourselves in the very situation of those, whom we lament as having suffered such grievous and unmerited treatment. Let us plead their cause, not as that of another, taking to ourselves for a short time their whole grief. So it is we shall speak, as if the case was our own. I have seen comedians, after appearing in a mournful character, make often their exit with tears in their eyes. If then the expression given to imaginary passions, can affect so powerfully, what should not orators do, whose interior sentiments ought to sympathise with their manner of speaking, which cannot happen

\* Æn. xi. 90.

† Æn. x. 782.

unless they are truly affected by the danger their party is exposed to?

In the declamatory exercises of schools, it would be likewise expedient to move the passions, and imagine the subjects as real transactions in life; and this should take place, so much the more, as there the part of a pleader against, than advocate for, is performed. We represent a person, who has lost his children, or has been shipwrecked, or is in danger of losing his life; but of what significance is it to personate such characters, unless we also assume their real sentiments? This nature, and these properties of the passions, I thought it incumbent on me not to conceal from the reader, by which myself, such as I am, or have been, (for I flatter myself I have acquired some reputation at the bar) have been often so affected, that tears not only, but even paleness, and grief, not unlike that which is real, have betrayed my emotions.

## C H A P. III.

*Of Laughter.*

- I. *The difficulty of exciting laughter.*—Of Demosthenes and Cicero, in this respect. II. *Its efficacy.* III. *It depends on nature and occasion.* IV. *Various names for the ridiculous.* V. *How laughter is excited. What ought to be avoided therein, and the moderation that ought to be kept.* VI. *Whence may arise subjects for laughter. Laughable things are either shewn, or told, or pointed out by a word.* VII. *All sorts of jests do not become an orator.*—Cold jokes lie in words. VIII. *Examples of some witty and facetious sayings.*

WE are now to speak of a different affection, which by exciting the judges to \* laughter, dispels the gloom of melancholy impressions, suspends often their attention by useful distractions, and sometimes also recruits and refreshes it after the disgust and fatigue of a long hearing.

I. The great difficulty of succeeding in this point may appear from the example of the two greatest orators, one the prince of the Grecian, the other that of the Latin eloquence. Most allow that this power was wanting in Demosthenes, but excessive in Cicero. Yet it does not seem to have been slighted by Demosthenes, whose puns, few in number, but not answering his superiority of genius in other respects, sufficiently shew, that pleasantry did

\* Concerning laughter, see Cicero. l. ii. de Orat. n. 216. 290.

not, in the main, displease him, but that nature had refused him that turn of wit. As to Cicero, on most occasions for exercising his talent of speaking, he was thought to have affected too much a jocose disposition.

But for my part, whether I judge well of the matter, or am overfond of this great master of eloquence, I find in him a nice and delicate raillery. In conversation he said a multitude of witty things; and no orator was ever so facetious and agreeable in altercation, and the examining of witnesses. The allusions he makes to the name of Verres, and the poor jests he hazards in ridicule of his actions, he imputes to others, and relates as testimonies against him; so that the more they seem vulgar and trivial, the more it is probable they are not of his invention, but rather the drolls of the witling people. I wish, however, his freedman \* Tyro, or whoever it was, that gave us a collection of his jests, was more sparing in swelling the volume, and had shewed more judgment in making a choice, than zeal in compiling all that occurred. If so, this work would have been less severely treated by the critics, which even in its present condition, ought to be respected, as well as his other witty productions, in which perhaps it may be easy to find something to retrench, but not to add.

Now, what makes it so difficult to succeed herein is, that every word tending to excite laughter, has most commonly something scurrilous in it, and scurrility is always low; very often too it is bor-

\* Tyro Tullius, Cicero's freedman, published three books of Cicero's jests. Macrobius says, that some are of opinion that these books were written by Cicero himself.

grew from some vicious imitation, and is seldom or ever to his honour who expresses it. Besides, it is differently taken by the hearers, as no judgement can be formed of it by any certain and invariable rule, but rather by the sentiments it produces, which we cannot so well account for, being better felt than expressed. For I think that none yet have satisfactorily expressed what laughter is, though many have attempted it. We see it moved not only by a word or action, but even by some manner or position of the body. Subjects likewise of various kinds are equally causes of it, as we not only laugh at witty and humorous things, but those, which folly, anger, or fear may say or do; and the reason why it is so easy to be mistaken in matters of pleasantry is, that scorn is nearly akin to laughter: for which reason Cicero has judiciously \* observed, that the object of ridicule is always some deformity or meanness, which by discovering in another, we make it on our side raillery; but if in laughing at others faults, we betray our own, it is folly and stupidity.

II. Though laughter may seem frivolous, and more becoming a buffoon than an orator, yet I cannot say what is more powerful, or more difficult to be resisted. It often breaks out in spite of us, and unassisted by other means, not only forces the face and voice to express it, but shakes the whole body by its violent commotions. It often likewise, as I said, disconcerts and unhinges the most serious and weighty affairs, by frequently breaking the edge of hatred and anger. We have

\* De Orat. ii. 236, and 248.

an instance of this in some young Florentine gentlemen, who having supped together, and in the heat of wine, made rather too free with king Pyrrhus's conduct; and the next day, finding themselves betrayed, and obliged to give an account to Pyrrhus himself of their conversation, which they neither could deny nor excuse, they saved themselves by a very seasonable joke: "It is all very true, Sir, said one of them; and was not our bottle exhausted, we certainly would have had thoughts of killing you." By this pleasant, yet bold address, the whole malice of their crime vanished.

III. But this business of laughter, though I dare not say that it remains without the direction of art, because some observations have been made on it, and some precepts have been composed for it, both by the Greeks and Latins; yet, I verily believe that it is principally indebted to nature and occasion. When I say to nature, it is not because some are more acute and ingenious than others at exciting laughter; for here too nature may receive an additional increase from art: but I say, that some in pleasantry, are so graceful in their manner, that the same things would be by far less agreeable if spoken by others. As to occasion, and the circumstances of things, their force is so considerable, that not only the illiterate, but even peasants make quick and sharp repartees to those who begin an attack of scurrility upon them; and in all these cases there is generally a handsomer, and more genteel come off in the answer than in the challenge.

There

There being no exercises upon it, nor masters to direct the learning of it, adds likewise to the difficulty. It is true, that in banquets, and the familiar intercourse of life, many are found exceeding witty, and shew infinite humour in their jests; but this happens from being practised in them: whereas, at the same time, the nice and delicate raillery, which suits an orator, is very rare, having no peculiar art to guide it, and yet is seemingly attainable from this commerce with the world. . .

IV. In laughable matters, we commonly use many terms to express the same idea; but if all these were examined separately, we should find to each of them annexed a peculiar signification.

By \* politeness, it seems, we understand a way of speaking, which in words, accent, air, and manner, makes perceptible a taste of the town, joined to a certain tincture of erudition, imbibed from the conversation of men of letters: something, in fine, the reverse of rusticity.

By † agreeableness, is understood, all that is said with a graceful and beautiful turn.

We usually say a word is “well ‡ seasoned,” to signify one which makes us laugh, and has something satyrical in it. I say usually, because in reality, though every word which makes us laugh, ought to have some seasoning; yet it is not necessary, that all which is seasoned, should make us laugh. For when § Cicero says, that all we call seasoned, is properly of the Attic taste, he does not mean that the Athenians are the only

\* Urbanitas.

† Salsum.

‡ Venustum.

§ Orat. 90.

people in the world mostly addicted to laughter : and when \* Catullus, speaking of a large sized woman, says, “ That in that huge body there was not one grain of salt ;” he does not say, there was any thing to be laughed at in her. I am therefore apt to think, that the salt of a discourse is that which constitutes its natural seasoning, and is opposite to what we call “ insipid ;” and that this salt makes itself known to the mind by some secret perception, as material salt to the palate, whetting constantly all that is said, and keeping it from creating a loathing. And indeed, salt sprinkled on meats, so it be not in too great a quantity, quickens the appetite with a particular sense of pleasure ; so the salt of the wit, by seasoning a discourse, has some charm in it, that makes an auditory thirst after hearing it.

I do not think also that the word † facetious, ought to be restricted to things that cause laughter. For Horace would not have ‡ said that nature had bestowed on Virgil a facetious kind of poetry. I rather fancy that it signifies a beautiful and exquisite elegance ; and Brutus used it in Horace’s § sense, as appears in one of Cicero’s epistles.

We take the word || joke to be that which is contrary to what is serious. For it may be a joke to pretend, and to frighten, and to promise, and the like.

\* Nulla in tam magno est corpore mica salis.

† Facetum.

‡ Molle atque facetum Virgilio, lib. i. sat. 10. v. 44.

§ Næ illi sunt pedes faceti, ac deliciis ingredienti molles.

|| Jocus.

\* Raillery, is a generical term, applicable to all its species; yet seems properly to signify a biting manner of expression, accompanied with a malicious laugh or smile. Demosthenes was said to possess politeness but not raillery.

V. But that which we here speak of, properly regards what is called † ridicule. The Greeks have expressed it by a ‡ term equivalent to ours. Its first division is the same, as of every sort of speech, consisting of things or words; and its practice is very simple: for subjects for laughter are either taken from others, or from ourselves, or from things intermediate. In others, we blame, refute, lessen, retort, or elude them. In ourselves, we point them out, and, to use Cicero's § words, we hazard some absurd expressions; for the same things which are silly, if they fall from us inadvertently, are agreeably received when said designedly. Intermediate things consist, as Cicero also || observes, in deceiving the expectation of the auditory, by taking a word quite otherwise than it seemed we should, or any other particular, neither regarding others properly, nor ourselves.

We also, either do, or say, ridiculous things. An action becomes laughable when accompanied with an air of gravity, as that of the prætor Cælius, who, when the consul Isauricus had broke his ivory chair by sitting down in it, handed him another girt about with leather-straps, alluding to that consul's being once lashed by his father. Sometimes the action is quite impudent, as the

\* Dicacitas.

† περι γελσία.

|| Ibid.

† Ridiculum.

§ De Orat. ii. 89.

affair of the box given by Cælius to Clodia, on which Cicero is so reserved ; for such things neither become an Orator, nor any discreet man. The same may be said of the air of the face, and of the gesture, which certainly contribute much to excite laughter, but never to so great a degree, as when they seem not to court it. Herein pleasantry shews itself to perfection ; for though these serious looks lend a particular grace to what is said, making them the more diverting, as he who expresses them, does not laugh ; there is, notwithstanding a way of adjusting the eyes, and countenance, and gesture, which become productive of very pleasing effects, when kept within certain bounds.

As to words, they are either ludicrous, or abounding with mirth, as most of the sayings of Galba ; or offensive, as those lately taken notice of in Junius Bassus ; or harsh, as of Cassius Severus ; or mild and humane, as of Domitius Afer. It is of some consequence, where and on what occasion they are used. At merry meetings, and in common discourse, words rather immodest and licentious are frequently in the mouths of the meaner sort ; but such as are expressive of a cheerful disposition, become all indiscriminately on these occasions. Yet let our sportive fancies be quite inoffensive, ever guarding against the folly, of “ choosing rather to lose a friend than a pun.” In contentions at the bar, I had rather abstain, even from the more innocent sort of jests, than give umbrage to any one ; though it is allowed to use there the most sharp and cutting raillery against adversaries, as we may impeach openly, and prosecute

cute to capital conviction. But no just inference can be hence drawn, that we might insult the unhappy. There is always an inhumanity in doing it, either because they are less criminal than unfortunate, or that the same mishap may await ourselves.

We should therefore first consider “who it is that speaks, and in what cause, before whom, against whom, and what he speaks.” It is quite unbecoming in an Orator to distort all the features of his face, and use ridiculous gestures in the manner of buffoonery. The scurrilous language of low comedy is also intirely foreign to him; and as to obscenity, far from mentioning any thing of the kind, he should not even allude to it: and if at any time it may be laid to the charge of a person, it is not in all places it would be fit and decent to expose the matter. I would have the Orator besides enliven his discourse by nice and delicate touches of raillery, but would not have him appear to affect them; for which reason he should not be witty as often as he might, but come resolved to lose rather sometimes a pun, than lessen his authority: for indeed, no one can bear with an accuser full of jokes in a cause of an atrocious nature, nor an advocate indulging a like strain in one that abounds with distress.

Some judges are so serious and grave, if not morose in temper, as scarce ever to countenance an attempt to make them laugh. It happens also sometimes, that in fancying to hurt the adversary, what we say redounds to the prejudice of our own party, or is offensive to the \* judge; and some have such a passion for jesting, that even to their

\* See an example of this, de Orat. l. ii. n. 245.

own disparagement they will not abate a tittle of this petulant humour. We have an instance of this in Longus Sulpitius, who being very ugly himself, and pleading against a man, his counterpart in ugliness, whose cause was a dispute concerning his right of freedom, said that he had not even the appearance of a man that was free: upon which Domitius Afer replied directly; "And are you in earnest, Longus; and do you believe that an ugly face is a negation to freedom? Your own, take my word for it, is not a whit handsomer."

We should also be careful that what we say in the way of joke, be not petulant, nor haughty, nor out of place and season, nor appear premeditated, or brought from home. To divert ourselves at the expence of the wretched, is an inhumanity I have already given some hints of; and there are some judges, whose authority is so well established, and moderation known, that to hazard any petulancy in their presence, would be extremely disgusting to them, and ill received. As to friends, I have given directions how we should behave towards them.

But there is an advice I would give, not only to orators, but to all in general, which is, never to form an attack upon persons, whom it would be dangerous to offend, lest mortal hatred, or an humiliating satisfaction be the consequence. I would likewise advise the declining of those malicious and sarcastic railleries, which reflect on whole nations, orders, conditions, or professions of men. A good man may be witty, but it will never be at the expence of his dignity and modesty; for a joke must be over-rated in its value, if probity sustains any detriment or loss by it.

VI. It is very hard to say, whence laughter may be raised, and from what places it may be drawn. For if we were to go through all the species, it would be an endless piece of work, and we should labour in vain. However, in general, laughter may be said to arise from the bodily defects of him against whom we speak; or from those of his mind, which are judged such, by his words and actions; or from things extrinsic, yet relative to his person. All the animadversions that may pass upon men, are reducible to these three heads; and if the matter be of a grievous nature, the animadversion will be serious; and ludicrous, if in the main, of no great moment: and these are either pointed out, or told, or specified by some word.

It seldom happens that there is an opportunity of placing them before the eyes of the auditory in so conspicuous a manner as was formerly done by C. Julius,\* who, having told Helmius Mancina, who had often interrupted him with his clamours, that unless he ceased, “he should soon shew him what he was!” And Mancina challenging him to do so, he pointed to the target of Marius, on which a hideous looking Gaul was painted, whom Mancina was then very like. There were shops about the Forum, and that target was set up at one of them as a sign.

Fictitious narratives shew the ingenuity of an orator. Cicero, in his oration for Cluentius, makes a very pretty one concerning Cepasius and Fabritius; and Marcus Cœlius another, concerning the contention of Lælius and his colleague for hasten-

\* See this story more at large, de Orat. l. ii. 266.

ing into their province. But such narratives require great graces and elegance, especially in what the Orator inserts of his own. The absconding of Fabricius was thus qualified with a pretty high-seasoning by Cicero: "Cepasius, in his defence of Fabritius, imagining himself very ingenious, for having invented these extraordinary and energetic expressions: "Behold, good Sirs! the misfortunes of mankind! Behold the various and melancholy accidents they are exposed to! Behold the old age of the unhappy Fabritius!" "After repeating this Behold several times, which he thought a singular ornament to his speech, he took it in his head to behold himself; but behold! Fabritius was gone! who taking his cause for lost, hung down his head, and passed out without any one perceiving him." Thus was this narrative conducted together with what he further added; but of all these particulars, nothing was true, except Fabritius's quitting the auditory. And Coelius's fiction is in all parts exceeding pretty, especially towards the end: "How he passed over the sea, whether aboard a ship, or in some fisherman's boat, is what no soul can tell. The Sicilians, who are a waggish sort of people, report that he chanced to light of a dolphin, which carried him over on his back like another Arion."

Cicero thinks that a \* facetious manner suits best a narrative of this sort, and that raillery should be levelled only at persons. Domitius Afer had a wonderful grace in telling these little stories, and many of them we find inserted in his

\* Orat. 87.

speeches. He was not less successful in witty sayings, of which he has left us some collections.

This kind also takes place, not so much in those darts of wit and raillery, as in an action of some length, of which Cicero gives us an † account in his second book concerning the orator, and in some other passages, relating in the former, the proceedings of Crassus against Brutus. It seems that Brutus, in accusing Cn. Plancus, who had retained L. Crassus for advocate, had commissioned two clerks to read two instruments, whereby it appeared that Crassus had manifestly contradicted himself in saying on the affair of the colony of Narbon, quite the reverse of what he had said concerning the Servilian law. Crassus hereupon commissioned three others to read three dialogues of Brutus's father, by which it appeared, that one of them had been composed at Piperno, another at Albano, and the third at Tivoli; and then asked him what was become of these estates. Brutus had sold them all, and for having thus dissipated his paternal fortune, was considered in a base light, and his accusation turned into ridicule.

Fables sometimes, and certain apposite tracts from history, contribute in like manner to the embellishments of a speech. However, the short touches of raillery and pointed sentences have something more striking, and may be equally used for attacking or defending; for the aggressor can say nothing, which does not admit of a reply. . .

VII. Now, as the places are many, from whence laughable sayings are drawn, I must again observe, that all of them indiscriminately do not suit the

† De Orat. ii. 213. et pro Cluent. 140.

orator. Among these, I particularly except against equivocations, all captious obscurities in the manner of \* Atellanes, all cant words, the favourite jargon of the common people, and others of the like cast, the ambiguity of which is made to receive a turn for infamous obloquy ; and words of a double meaning, which sometimes fell from Cicero, not in pleading, but in common discourse ; as, seeing a man, who was said to be the son of a cook, ask another in his presence, for his vote ; “ And † I too, says Cicero, will give you mine, with good sauce into the bargain.” Not that I hereby think to exclude all words of a double meaning, but only to intimate, that they seldom answer well, unless properly supported by the things themselves.

If the example just cited, may seem to border upon scurrility, the following on the above mentioned Isauricus, may be characterized as facetious and elegant. “ I wonder says Cicero to him, how your father, the smoothest man in the world, could have left so ‡ rough a son behind him.”

\* The Atellanes were a kind of farce or interlude, much like the satiric comic pieces of the Greeks, and were so called from Atella, a town of the Osci. They abounded with pointed sentences, a play of words, and some excellent jests, in which the mind was taken up with the pleasure of divining. Nothing in them was offensive to modesty ; and they were the only the Romans could play without incurring the stigma of infamy.

† *Ego quoque tibi jure favebo*, cannot be made English according to the Latin equivocation. Here it means those *broths* or *soups* that are seasoned by cooks. There may be another equivocation in *quoque* for *coque*, being thus in sound both a noun and conjunction. Cicero says the same of another, *optimo jure magistratum es adeptus*.

‡ *Varius*, coarse, uneven, rough, rugged. *Vari*, so the pimples and pustules were called, as those of the small pox,

This

This too, from the same author, is extremely well hit off: as when Milo's accuser objected to him, as an argument, that he lay in wait to kill Clodius, because he turned out of the road to go to Bovillæ before the ninth hour, in order to wait the departure of Clodius from his villa, and because having often asked him what time Clodius was killed, he answered, "late;" which equivocating word may alone suffice to shew, that this sort of raillery is not intirely to be rejected. Add to this, that equivocations not only signify several things, but also quite the reverse of what they seem to signify. So Nero speaking of a slave he had, who was an arrant thief, gave him this \* character; "that he was the only one of his domestics who could be most trusted; as there never was any thing either hidden, or locked up from him." . .

Punning upon names by adding, changing, or retrenching some letters, is generally cold, and insipid. Thus I find one by the name of Acisculus, called Pacisculus, upon account of some iniquitous contract he had engaged in; and Placidus called Acidus for being of a sour temper, and Tullius for being a thief, called Tollius. This sort of pleasantry, to be tolerable, must rather allude to things than names. Domitius Afer, ob-

which break out over the whole body, and especially in the face, making certain pits and inequalities in it. Whence a man was called *Varius* by ambiguity, or inconstant, or deformed by being marked with these pits.

\* Nothing is locked up from servants of approved honesty and fidelity; but the dishonest will come at every thing they possibly can, notwithstanding its being kept under lock and key from them. The Nero here quoted is not the Emperor of that name. This passage may be seen in Cic. de Orat. l. ii.

serving Manlius Sura to put himself in great agitations as he pleaded, as to run to and fro, jump, toss about his arms, let fall and adjust his gown; said very pleasantly, that he could not tell whether that man pleaded, but that he perceived he was very busy. The word "very busy" is facetious enough, without alluding to any other. An aspiration, taken from or added to a name, is productive of a jest, most commonly cold indeed, but sometimes passable.

The same may be said of all the significations that are made out of names. Cicero in this way made many remarks on the name of Verres, but relates them as coming from others, and not of his own invention: "That \* by being called "Verres", he certainly in consequence of his name would "brush away" every thing; that he would be more troublesome to Hercules, whom he had plundered, than ever the Erymanthean "boar" was; and that "Sacerdos" did not deserve to be so called, for having left behind him so "dangerous an animal." A lucky hit or chance sometimes makes these allusions quite seasonable, as we find in Cicero for Cecinna, to discredit the deposition of a witness, who was called Sextus Clodius Phormio: "You see, good Sirs, that this Phormio is not a less notorious rogue, nor less presumptuous, than the Phormio of Terence."

VIII. Jests arising from the nature of things, are always the smartest and most elegant. . . In Cæ-

\* *Verrere* signifies to brush, and *verres* a boar-pig. Whence these allusions. The governor of Sicily before Verres was called Sacerdos, and Sacerdos signifying a sacrificator or priest, Cicero puns upon the word, because in Sicily twine were sacrificed to Ceres.

far's triumph, the towns he had taken, were represented in ivory, and carried with great pomp in the procession: in some few days after Fabius Maximus triumphed, and his towns were only of wood: Chrysippus remarked on the occasion, that they were but cases for Cæsar's towns. . \* . Some ambassadors from Tarragona in Spain, having complimented Augustus that a palm-tree had grown up on his altar in their country: "Nothing declares better, replied Augustus, your care in burning sacrifices upon it." . . . Philip, the Orator, asking Catulus what he barked at? "Why, says Catulus, I see a † thief." . There is a way of deceiving the expectation, by giving to the words of another a quite different meaning from what they should have; and this always proves a very agreeable kind of raillery, as that † saying of Cicero: "He is a man, to whom nothing is wanting, except riches and virtue." Or of Domitius Afer: "No man can appear better ‖ apparelled for pleading a cause." . . \* .

It makes a shew of erudition to borrow hints of raillery from history or fable. Of this we have an example in Cicero's examining a witness, whom he led to say several things to the prejudice of Verres, which Hortensius observing, said that he did not comprehend such riddles: "Why not, replied Cicero, do not you keep a sphinx at

† It is not probable that Philip the Orator was a thief, and therefore this smart repartee does not seem to be levelled at him. Perhaps it was at the person, whose cause Philip then defended. See Cic. de Orat. ii.

‡ De Orat. ii. 181.

‖ Meaning if fine and elegant cloaths were to gain a cause, no man could come better furnished or qualified.

your house?" The reason of his saying so was, that Verres had made him a present of a brazen sphinx of great value. . .

In short, all witty sayings in my opinion, to be justly reputed such, ought to have no absurdity in them, nothing clownish or flat, nothing foreign; and all, or any of these particulars, ought not to be discoverable in meaning, words, pronunciation, or gesture; that the force and beauty may lie, not so much in a single word, as in the whole colouring of the discourse, as among the Greeks, the Atticism, a certain delicacy, favouring of a wit and taste peculiar to Athens. . .

## C H A P. IV.

### *Of Altercation.*

*Why he now treats of it.—Its importance.—The altercator ought to be a person of piercing and ready wit.—He should be free from the vice of anger.—The state of the question should be constantly present to his mind.—He should not be clamorous. How he may ensnare his adversary.—He must have an eye to what he is to press home, and what to pass by.—He must acquire practice in this business.*

THE precepts concerning altercation, might, it should seem, have succeeded, as in their proper place, all that I have discussed as belonging to a continued discourse, its use being last in order; but by its consisting entirely of invention, by its having no occasion for disposition, by its needing but few graces of elocution, and by memory

mory and pronounciation being of no great help to it, I think it may well come in here. It was therefore advisable, before passing to the second part of the five I mentioned, not to leave behind an article, which depends absolutely on the first; and if other writers have omitted it, they fancied perhaps that being well instructed in other parts was a sufficient introduction to this. The whole of it is made up of attack and defence, of which I have already spoke sufficiently; because whatever serves to enforce proofs in a continued discourse, is consequently available in this which is short and interrupted; for things of a different nature and tendency are not said in the altercation, but are otherwise treated, as by way of question and answer; which point too has been fully explained in the observations I made on witnesses. But having undertaken to give this work its due extent, and considering withal that the orator cannot be said to be perfect without possessing this accomplishment, I shall throw together some reflections on the matter, which I think in some causes contributes greatly to bring the advantage over to our side. .

The contest in altercation is generally hot, and no where one is obliged to fight more with \* sword in hand. For then it is the orator must fix his principal proofs in the judge's memory, and perform whatever he has promised in the pleading, and refute all the false positions of the adversary. A judge is never elsewhere so attentive, and it is not without reason that some, though of indifferent

\* *Mucrone pugnari* is an elegant metaphor in Latin, borrowed from warlike engagements, the battle being then most desperate, when having discharged all missile weapons, they come to close quarters with the sword.

oratorical abilities, have acquired the reputation of good advocates by managing the altercation to advantage. But some orators, satisfied with discharging the more specious part of the duty they owed their clients, quit immediately the auditory, followed by a train of flatterers, and leave this decisive part of the battle to be disputed by ignorant\* attornies and sollicitors. On this account it is, that we see commonly in private causes, some nominated for the principal action, and others for the proofs: for my part I think, that, if these functions are to be divided, this is undoubtedly the more necessary; and I am ashamed to say, that these attornies should be found more useful to the contending parties than great advocates. This abuse, however, has still been guarded against on public † trials, wherein the crier calls out upon the principal pleader to come and appear, together with the other advocates.

To succeed in altercation, a person must be of ready wit, sharp judgment, and have great presence of mind; for he must not so much think, as reply off hand, and be ever watchful to ward off the adversary's blow. Wherefore as it contributes much to all parts of the orator's duty, not

\* *Pullata turba* a name given to the illiterate. The common people at Rome, formerly wore *black*, and were thence denominated; but here the *pragmatici*, or lower practitioners in the law, are understood; for the orators appeared clad in *purple*.

† In public judgments, after the peroration on both sides, it was usual with the crier to give warning to the advocates to proceed to the altercation; and as there were many of them, he at last cited the pleader of the cause by name, so that it must have been shameful to him, if he could not acquit himself of the altercation.

only to be careful in studying, but also to be familiarly acquainted with the causes he undertakes; so in altercation it is extremely necessary to have a thorough knowledge of persons, instruments, times, places, and the like. .

A good altercator should be careful of giving into the vice of anger, as no passion is so great an enemy to reason, nor more capable of making us lose sight of the cause, often compelling us to say unseemly things and to meet with a like return, and sometimes irritating the minds of the judges against us. It is therefore more adviseable to use moderation, and sometimes even patience. We need not put ourselves to the stress of refuting all manner of objections; some we may make flight of, lessen their force, or turn into ridicule; and keen jests and raillery are never elsewhere so seasonable: yet must we bear up against perturbators, and withstand impudence with all our might; for some are so preposterous, and obstinately bent on gratifying this humour, that they raise huge clamours, and interrupt in the midst of talking, and confound all by their tumultuous noise. These are not fit objects for imitation, and I would therefore have them vigorously resisted, and cut short in their strain of petulancy, by often requesting the judges, or presiding magistrates, to interpose their authority, that every one might retain the liberty of speaking in his turn. For patience in such case, is not moderation and a mildness of temper, but pusillanimity, and the effects of a dastardly disposition.

An acute and piercing judgment is of vast service in altercation; which undoubtedly does not  
proceed

proceed from art, as nature is not taught, but may be helped by art. The principal consideration in this respect is, to keep always in view the state of the question, and what we design to effect. Thus holding to our purpose, we shall not engage in wrangling, nor spend the allotted time of the debate in obloquy ; and if the adversary does so, we may have reason to be glad that he acts contrary to his interest. Every thing lies ready for him, who has diligently meditated on what may be objected to him, or what he ought to answer. Some times it may not be amiss to have recourse to the artifice of producing suddenly in the altercation, some things which have been dissembled in the pleading, in order to 'bear down the adversary contrary to his expectation, just like a sally from a besieged place, or an irruption from an ambuscade, rapidly pouring down upon an unprepared enemy. This is best done, when any thing occurs, which cannot be immediately answered, though it might with sufficient time. For what is really substantial in an argument, it would be always advisable to make the most of in the first pleadings, that it might the oftener and longer be insisted upon.

It should seem unnecessary to advise the altercator to avoid merely appearing as full of bustle, noise, and obstinacy, a fault chiefly inherent to the illiterate. This perverse fanciful humour, whilst troublesome to the adversary, must be hateful to the judge. And indeed, long resistance is hurtful in what you are not able to obtain ; for where there is a necessity for being conquered, it is expedient to yield ; because, if many points be contested, the sincerity we shew in giving  
up

up one, will make us credited in others; and if there be but one, and we relinquish it, our honest shame will at least incline the judges to act with less rigour towards us: whereas to defend stubbornly our fault, especially when made sensible of it, is a second fault worse than the first.

Whilst the battle is still fighting with various success, it will be a good stratagem, to draw the adversary into an error, and to let him run out of his byas as long as he may, buoying himself up with the hopes of coming off conqueror. For this purpose we may ingeniously dissemble our having certain instruments, which he, no doubt will require with importunity; and imagining no voucher of any sort can appear, he will admit the losing of the cause if there could. This requisition on the producing of our vouchers, will establish in full authority our proofs. It will be also advisable to make some concession to the adversary, which by thinking to his advantage, and making a handle of as such, he will be obliged to give up something of greater moment himself. Again, two things may be proposed, the choice of either of which will be against him. This is done with better effect in the altercation than pleading, as in the latter we answer ourselves, but in the former we oblige the adversary to hold to his own confession.

It is likewise the business of acute judgment to discern the things that make an impression on the judges, or create in them a distaste, which is oftenest perceptible from reading their countenance, and sometimes from a particular word or action.

We should insist upon the reasons they seem to approve,

prove, and by a gentle sliding disengage ourselves insensibly from those they are unfavourable to. So it is that physicians manage their patients : they cease or continue their remedies, in the proportion they observe their constitutions to receive or reject them. Sometimes, if it be not easy to extricate ourselves out of the embarrassment of the proposed question, we should start another, and draw over to it, if possible, the judge's attention. For where we cannot answer properly ourselves, what better expedient can we adopt than to involve our adversary in the like dilemma. .

But to be practised in altercation is the likeliest way to prove successful. In order thereto, no exercise could be more useful, than frequently with the companion of the same studies, to make choice of a subject of controversy, either fictitious or real, and dispute upon it, as is done in the altercation. Any single question may be canvassed in this manner.

I would not also have an advocate be ignorant of the order he should propose his proofs in for the consideration of the judges. The way of conducting this is the same as that of arguments, concerning which I remarked, that the most cogent and powerful ought to be enforced both in the beginning and the end ; as by this placing of them the judges are first disposed to believe what we advance, and secondly to pronounce in our favour.

## C H A P. V.

*Of Judgment and Design.*

HAVING discussed these particulars to the best of my abilities, I would have directly passed over to disposition, which follows naturally in the order of things; were it not, that some, by placing judgment immediately after invention, might think it strange, if I did not here speak of it. But in my opinion, it is so connected and intermingled with all the parts of this work, as not to admit of being separated from thoughts; no, not even from single words; and therefore can no more depend upon the direction of art, than taste or smell. All that we can then do, is to point out and inculcate what may be right and what wrong, that judgment may keep them in view; and the principle rule for its guidance herein, is not to attempt proving what is impossible, to avoid arguments contrary to us and those common to both parties, and never to use a corrupt or obscure manner of expression. As to all other particulars, they lie not within the precepts of art, but must be judged of by an intimate sense, not reducible to description or demonstration.

Now, as to design, I believe the distance between it and judgment extends no farther, than that the latter is conversant with things of easy invention, and, as it were, presenting themselves; and the former, with such as lie hid, or are not yet fully discovered, or doubtful: and that judgment is most commonly certain; whereas design

is a reason, going deep into the matter, usually making an estimate of many things, and comparing them together, and comprehending in itself both the act of inventing and judging.

There are not, however, any general precepts for directing us in regard to judgment and design, as they often vary according to circumstances: for design arises from a thing, which may frequently take place before the pleading of a cause. Thus Cicero seems to have laid his design pretty deep, when he chose to abridge the term of his pleading against Verres, rather than hazard the decision of the cause, if it was deferred till the year that Q. \* Hortensius was to enter on his consulship. And indeed, it is design that holds the first and principal rank in the pleadings themselves: it suggests what ought to be said, and what not, and what ought to be deferred to a convenient opportunity: it directs whether it be better to deny, or to defend; where the exordium may be of service, and of what sort; whether the narration be necessary, and how it should be conducted; whether we should contend for the rigour of the law, or be content to have the matter decided by equity; what order is likely to be of most utility in the pleading; what colouring would best suit each of its parts; and whether the elocution should be in a bold, gentle, or submissive manner. Precepts have been given on all these heads, as they occurred, and the same I intend to do in the remaining part of this work. I shall, however, add a few things by way of example, in order to shew

\* Hortensius was Cicero's chief rival in eloquence; and it was he that undertook the defence of Verres.

more clearly what that is, which I think cannot be demonstrated by precepts.

The \* design of Demosthenes is commended, who being to persuade the continuance of war to the Athenians, in which they had hitherto been but unsuccessful, undertook to demonstrate that they had yet done nothing in which prudence and good management had any share. He thus imputed their ill success to neglect, which might easily be repaired by diligence, and by being more circumspect. But if he had intimated they were not wanting in any thing, they could not reasonably flatter themselves with better hopes for the time to come. The same † Orator, apprehensive of giving offence to the Athenian people, if he should reproach them with their indolent disposition, turned artfully his discourse upon the glory of their ancestors, who, to assert and establish firmly their liberty, had governed the republic in the true spirit of patriotism. This was telling them things they heard with pleasure, and it was natural to approve of so laudable a conduct, and to be touched with remorse for their own, which was then quite the reverse.

Cicero's oration for Cluentius, would alone be sufficient to furnish a number of examples. For what design can I admire most in him? Shall it be the first exposition, whereby he destroys the credibility of a mother, who appeared against her son, and whose testimony was greatly to be dreaded? Or, his turning against the adverse party the suspicion that Cluentius had corrupted the judges, which he chose to do rather than deny the fact, on

\* Philip i.

† Olynth. iii.

account, as he says himself, of the notorious infamy of that judgment: or, in this very odious affair, his having at last recourse to the relief of the law, a kind of defence, which would have greatly displeased the judges, if, without these precautions, he had begun with it: or his having protested himself that he did so, contrary to the inclination of Cluentius?—What shall I say of his defence of Milo, where the variety of design is admirable? He does not relate the fact, till he has destroyed all the prejudices which were entertained against Milo. He throws all the odium of a premeditated assassination upon Clodius, though in reality the combat between them, was but a encounter. He commends the act, as of service to the public, yet exculpates Milo's intention in regard to it. He puts no supplications in Milo's mouth, because unworthy of a man of his spirit, but assumes the character of suppliant himself. .

Let it therefore be enough to observe that, not only in the art of speaking, but in all occurrences of life, nothing is superior to design. In vain, arts and sciences are taught, unless they lean on this basis. This prudential forecast effects more without learning, than learning without it. It appears likewise that it is the same power that adapts an Oration to place, time, and persons. But as this matter is of some extent, and lies intermingled with elocution, I shall treat of it among the \* precepts for expressing every thing with justness and propriety.

• Book xi. c. i.